COVID-19: FRANCE REVIEWS ITS HEALTH MEASURES TAKEN IN THE CONTEXT OF THE COVID-19 PANDEMIC

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French Labor, Employment, and Workplace Safety Alert

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Since 19 May 2021, France has been going through a series of steps that should lead to the lifting of the majority of health and social restrictions imposed on its territory since November 2020 and France's “third lockdown.”

The Ministry of Labor has updated the National Protocol to ensure the health and safety of employees regarding the COVID-19 pandemic (the "National Protocol"). In addition, the French government's border strategy has been modified, impacting the ability of employees to travel between states.

Indeed, new measures taken on 19 May 2021, have already changed the daily life of bars, restaurants, museums and cinemas, which were able to reopen with a limited capacity, and according to a strict sanitary protocol. In addition, changes for companies and employees as well as for entering and leaving the French territory have been applicable since 9 June 2021.

A NEW VERSION OF THE NATIONAL PROTOCOL IS IN EFFECT SINCE 9 JUNE 2021

Since the beginning of the COVID-19 pandemic in March 2020, the French Government has adopted a National Protocol to limit the spread of the virus and to organize the French companies' economic activity continuation.

In order to allow a gradual return of employees to the office, the National Protocol was updated on 9 June 2021. Given the evolving health situation, this new edition is part of a cautious government approach, which will be reviewed and refined at the end of June.

Here are the essential new rules to be highlighted:

Employees are allowed to return to work at the company's premises if their functions allow it. However, the employer must set a minimum number of days of remote work per week, and it should be noted that a complete return to the company's premises is prohibited.[1]

As a result:

- Meetings at the company's premises are now authorized. However, videoconference should be preferred and barrier measures should be applied at all times (i.e., masks, ventilation, social distancing);
- Restaurants can reopen at 50 percent of their capacity and under strict conditions: groups of maximum six employees per table, with two meters distance; and

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- Break time is authorized but in compliance with barrier measures, outside if possible and with a limited number of 25 employees.

The sanitary rules and physical distancing remain mandatory within the companies: employers must provide masks, hydro-alcoholic gel, limit the risk of crowding, crossing, and concentration of employees and customers, etc.

In addition, employers are still subject to their general obligation to preserve employees' health and safety. Attention must be paid to the prevention of psychosocial risks for employees, in particular by maintaining links within the work group and preventing risks due to remote work. Failure to comply with this obligation may result in litigation in which companies may be required to pay damages to employees. In addition, in the case of a labor administration audit, an employer may be required to pay a fine of up to €10,000 for each employee.

New measures will have to be implemented after publication of the future version of the National Protocol expected on 30 June 2021.

New Border Strategy Modifies the Ability to Travel Internationally

Since October 2020, only travel based on a compelling reason, strictly defined by the French government, was authorized between France and a foreign country outside the European Union area.

From 9 June 2021, the flow of travelers between France and foreign countries has been reopened depending on the local health situation abroad and the travelers' status of vaccination.

The French government has published a map identifying countries by "green zone,"[2] "orange zone,"[3] and "red zone"[4] and has defined specific rules updated every two weeks according to the local health situation. For example, the United States, Canada, and the European Union which were listed as "orange zone" on 9 June 2021, were then moved to "green zone" on 18 June 2021.

To date, exit from the French territory requires compliance with the conditions listed below:

- Travel to "green zone" countries: departure from France is authorized without any constraints from the French authorities.
- Travel to "orange zone" countries: departure from France is conditional upon completion of vaccination, except in the case of a compelling reason, such as a specific mission essential to the continuation of economic activity or a vital medical emergency.
- Travel to "red zone" countries: the only way to travel to the destination country from France is to present a compelling reason, the list of which is more restrictive than for countries in the "orange zone." Notably, for these countries, business travels are prohibited.

N.B.: Travelers must also comply with the rules of the country of destination, some countries making mandatory PCR tests upon boarding or isolation periods upon arrival.

Entry into the French territory is subject to the following conditions:

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Travel From "Green Zone" Countries

France no longer requires a compelling reason. Vaccinated travelers can come to France without a screening test, provided they have a complete vaccination certificate. Non-vaccinated travelers must present a negative PCR test of less than 72 hours upon boarding.

Travel From "Orange Zone" Countries

A negative PCR test of less than 72 hours or a negative antigen test of less than 48 hours is required upon boarding. Vaccinated travelers must also provide proof of complete vaccination. Those who are not vaccinated must provide a compelling reason to enter France, present a negative PCR test of less than 72 hours or a negative antigenic test of less than 48 hours upon boarding, and comply with a seven-day self-isolation upon arrival.

Travelers From "Red Zone" Countries

A compelling reason is mandatory, more strictly defined than for "orange zone" countries by the French government. Travelers must present a negative PCR test less than 48 hours old, perform an antigenic test upon arrival and undergo a mandatory ten-day quarantine controlled by the security forces. For those who have been vaccinated, this quarantine is reduced to a seven-day self-isolation.

Travels for professional purposes, such as missions or employee secondment, are only authorized from countries in the "green zone." For employees coming from an "orange zone" or a "red zone," the compelling reasons are strictly listed by the government and do not cover missions essential to economic activity.

Therefore, employers are strongly advised to remain attentive to the changes announced by the French government and to ensure that they comply with all of these necessarily evolving measures as soon as an employee's business trip is contemplated.

For any further information please contact us.

FOOTNOTES

[1] As a reminder, since November 2020, remote work is the rule defined by the French government for all functions allowing it. Employees were allowed to come back to the office one day per week for exceptional reasons, in particular, to avoid any isolation risk.

[2] As of 06.22.2021: European Union, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland and the Vatican, Australia, Canada, South Korea, United States, Israel, Japan, Lebanon, New Zealand and Singapore.

[3] As of 06.22.2021: All countries, except countries in "green zone" and "red zone", for example: United Kingdom.

[4] As of 06.22.2021: Afghanistan, Argentina, Bahrain, Bangladesh, Bolivia, Brazil, Chile, Colombia, Costa Rica, India, Maldives, Nepal, Pakistan, Paraguay, South Africa, Sri Lanka, Suriname, Uruguay.

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