

France

Executive Summary

France is a popular destination for holiday and business travelers alike. While brief visits generally pose no issue, coming to France to work or for longer stays means complying with a strict procedure with various authorities.

It is very important to apply for the appropriate visa in the foreign national's home country before coming to France. Personal appearance at the consular post is required in most cases.

Key Government Agencies

Visa applications are processed at French embassies and consular posts around the world.

The Labour Department (“Direction Régionale des Entreprises, de la Concurrence, de la Consommation, du Travail et de l’Emploi” or “DIRECCTE”) countersigns employment contracts required for certain working visas.

Work permits required for long-stay visas are handled by a specific immigration office, the National Agency for the Reception of Foreign national and Migration (“Office Français de l’Immigration et de l’Intégration” or “OFII”), which approves files and sends them to the consular post for visa issuance.

Registration may also be required at the local Police department (“Commissariat de Police”) located near the place of residence in France.

Current Trend

For 20 years, plans have been made to gather various aspects of immigration policy in one structure, which had been previously split up between the ministries of Interior, Foreign Affairs, Social Affairs and Justice. By an initiative of President Nicolas Sarkozy, a single ministry competent for immigration, integration, national identity and development partnership was created.

French immigration policy pursues four objectives: controlling migration flows; favoring integration; promoting the French identity; and encouraging development partnership.

In addition, France wishes to improve the system of immigration for professionals. Therefore, in response to recruitment needs in certain economic sectors, the French government has decided to encourage immigration for professionals and make it easier for foreign nationals to enter France for selected professions.

Business Travel

Short Term Visas (less than three months)

In general, and subject to the visa waiver described below, foreign national must, prior to coming to France even for a short visit, obtain a visa from the French Consulate in the country where they reside.

The applicant will apply for a Schengen visa, if the main destination is France. The Schengen visa allows entry to France and to move freely within other countries in the “Schengen space.”

Currently, the members of the Schengen space are the following countries: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.

It is not possible for a holder of a Schengen visa to visit EU countries that are not members of the Schengen space.

The visa is granted for a maximum period of three months, and allows single or multiple entries. During the validity of the visa, the foreigner is authorized to stay in the Schengen space for the period indicated in the visa.

The application must provide a return ticket and evidence of sufficient resources for the stay in France (provided by the Town Hall).

The starting date for the authorized duration of stay is generally determined by the date stamped on the passport when crossing the border into France. In the absence of a stamp, the foreigner has the burden of proving the actual date of entry in to France (*e.g.*, showing travel ticket).

Visa Waiver

Visas are not required for EU (*i.e.*, twenty seven countries, Romania and Bulgaria benefiting from that specific status) and EEA (*i.e.*, Norway, Liechtenstein and Iceland) citizens to visit France.

In addition, the normal visa requirement is waived for trips of up to 3 months for citizens of the following countries: Andorra, Argentina, Australia, Bolivia, Brazil, Brunei, Canada, Chile, Costa Rica, Croatia, El Salvador, Guatemala, Honduras, Israel, Japan, Malaysia, Mexico, Monaco, New Zealand, Nicaragua, Panama, Paraguay, San Marino, Singapore, South Korea, United States, Uruguay, Vatican, and Venezuela. Also included are holders of passports from the Hong Kong Special Administrative Region of the People's Republic of China and the Special Administrative Region of Macao of the People's Republic of China, and holders of a valid residence document in France.

Training

Citizens of EU/EEA are able to live and work in France without a visa. Therefore, they are authorized to remain in France for training without securing a French visa.

Citizens of other countries must qualify for one of the visas set out below. In addition, non-EU/EEA citizens will generally be required to hold a valid work permit, which is obtained at the competent Préfecture in France after the visa is issued. A contract approved by the DIRECCTE is required for the visa application.

Short-stay Visa (“visa de court séjour”)

The Short-stay Visa can authorize training assignments for up to ninety days. No extension of stay is possible. Further, no more than ninety days can be spent in France during a six-month period. No further administrative steps are required at the French Préfecture.

Long-stay Temporary Duration Visa (“visa de long séjour pour durée temporaire”)

The Long-stay Temporary Duration Visa authorizes trainings for up to six months. No extension of stay is possible. No further administrative steps are required at the French Préfecture.

Long-stay Visa (“visa de long séjour”)

The Long-stay Visa authorizes foreign nationals to remain for periods longer than six months. Once in France, it is necessary to apply for a residency permit (“carte de séjour”).

However, as of June 1, 2009, the following categories of foreign national can obtain a Long-stay Visa equivalent to a one-year residence permit (no obligation to apply for a residence permit once in France) from the French Consulate:

- spouses of French citizens;
- visitors;
- employees having an employment contract approved by the DIRECCTE (fixed-term contract or indefinite-term contract; employees under the Intra-company Transferee classification do not benefit from this procedure – they must apply for residence permits); and
- students.

For the four above-mentioned categories of foreign national, the visa is generally valid for one year. If the foreign national wishes to stay longer than one year in France, then two months before the expiration date of the visa, a residence permit application must be filed at the Préfecture competent within the domicile.

Employment Assignments

Corporate Executive Visa

Corporate executives for visa purposes include: the President and/or Managing Director of a French corporation (“Société Anonyme” or SA), the President and/or the Managing Director of a simplified corporation (“Société par Actions Simplifiée” or SAS), the Managing Director (“Gérant”) of a French limited liability company (“Société à Responsabilité Limitée” or SARL) or the Managing Director (“Responsable en France”) of a branch or a liaison office.

Corporate executives are required to obtain a visa in order to both reside and hold the positions in France. Their visa is processed through the Trade and Foreign Affairs Department.

To hold the above position without residing in France, a non-EU national must still obtain a prior simplified authorization (“*récépissé de déclaration*”).

Employee Visa

Employee visas require first that the French employer file an application with the DIRECCTE. When approved, it is then processed by the OFII, who in turn will forward it to the French Consulate. The employee and family members will then be able to collect their Long-stay Visas from the French Consulate. This process can take approximately 4-6 weeks.

When the employee and family arrive in France, they must undergo a medical examination with the Immigration Office. If coming under the Regular Employee classification, the employee must also take French language lessons, if they are not fluent, and follow civic training.

Upon presentation to the Préfecture of the visa and evidence of their domicile in France, the employee and family will receive a provisional residence permit valid three months (“*récépissé*”) and then a one-year residence permit (“*titre de séjour*”). They may also directly obtain a one-year residence permit depending on the Préfecture involved. The employees under the Intra-company Transferee classification receive a three-year residence permit.

For the employee, the residence permit acts both as a residence and work permit.

In principle, the spouse is not allowed to work. However, under certain circumstances, in particular if the employee’s spouse entered France under the Intra-company Transferee classification, permission to obtain a work permit may be granted.

In addition to the residence permit, the seconded employees must obtain a work permit (“autorisation provisoire de travail”) from the DIRECCTE.

The one-year residence permit and the work permit when applicable are renewable. Such renewal must be requested two months prior to the expiration date.

Regular Employees

In principle, new immigrants are not allowed to arrive and work in France. However, a French employer may face difficulties in recruiting a local employee meeting the requirements for the position available. Consequently, the Labor authority, prior to the approval of such an application, must take into account the context of employment in France in the relevant sector. In order for the application to succeed, the employer should therefore characterize difficulties of employment in his/her sector.

In the event the employer finds a non-EU employee abroad who fulfils the conditions, such employer could be requested to obtain clearance from the National Employment Agency. This clearance is not a guarantee the work permit application will be approved.

Temporary assignments

Intra-company Transferee

The employees in this category (“salariés en mission”) are those who are working in a group and who are assigned by a foreign company of that group to a French company which is part of the group. The work permit applications must meet the following conditions:

- The employee has been working for the group for at least three months before the assignment in France;

- The monthly gross salary to be paid while working in France must exceed 1 and 1/2 the legal minimum salary (known as the SMIC), which currently for 2010 represents € 2,015 gross.

The above category includes two types of employees: the ones who become employees of the French company; and the others who, while working in France, remain employees of the foreign employer (“détachés”).

The employees will obtain a three-year residence permit renewable once. Such a permit enables the employees to work only in the defined position with the same employer.

Employee seconded in the framework of a service agreement

This category concerns employees temporarily seconded to France by their foreign employer to a third party company for the performance of specific services (*i.e.*, technical assistance) in the scope of a service agreement.

The secondment should not result in the employee’s effective involvement in the daily running of the French host company’s activity.

Other Comments

It is possible for non-EU nationals, after five years residency in France, to obtain a ten-year residence permit (“Carte de resident”), if they can prove that they have a regular business activity in France (*e.g.*, as corporate executive, regular employee or otherwise) from which they derive sufficient income and declare that they intend to reside in France for a long period or on a permanent basis.

The non-EU spouse of an EU employee working in France may be entitled to obtain a ten-year residence permit. In contrast, the non-EU

national who is a spouse of a French national can receive only a one-year residence permit, which is renewable once before obtaining the ten-year residence permit. Such a one-year residence permit allows the spouse to work as an employee.

The ten-year residence permit enables the holder to hold any position in France. This permit is renewable. The holder who is absent from France for up to 3 years may retain the benefit of such a permit.

Children of non-EU nationals residing in France must secure a residence permit (“titre de séjour”) after their eighteenth birthday for the same duration as the permit of their parents. Such residence permit does not allow the children to work.

Children of non-EU nationals born in a foreign country may secure a specific document known as “Document de Circulation pour Enfant Mineur” (“DCEM”).

Children of non-French nationals born in France may secure a specific document named “Titre d’Identité Républicain” (“TIR”).

These documents enable the child to prove his/her identity, to travel freely in France and to prove that he has a regular stay in France while traveling outside the country.

In case of change of address, a non-EU national who moves from one residence to another must notify the local Police department (“Commissariat de Police”) of the new residence.

French residents may be eligible to naturalize and become French citizens after continuously residing in France for 5 years. Residency during the five-year qualification period may be achieved by living in France under certain categories of valid residency (*e.g.*, visitor, student, regular employee or corporate executive).

Approval criteria includes assimilation into France (*i.e.*, knowledge of French, insertion into the French community), health (*e.g.*, absence of a chronic condition), morality (*i.e.*, no police record indicating an unlawful act in France or abroad), and an acceptable professional and financial profile.