

Source: International HR Decision Support Network News > 2018 > September > 09/21/2018 > France: New Immigration Law Would Ease Some Visa Requirements for Foreign Professionals

France

France: New Immigration Law Would Ease Some Visa Requirements for Foreign Professionals

By Rick Mitchell

France published a new law on immigration that, among other things, extends the reach of 2016 legislation that eased access for skilled foreign professionals to the country's labor market.

Law No. 2018-778 of Sept. 10, 2018, for Managed Immigration, an Effective Right of Asylum, and Successful Integration, published Sept. 11, "for the most part aimed to make the asylum process more restrictive for asylum seekers, but it also includes a handful of very business-friendly immigration measures for the corporate world," Karl Waheed of Paris-based immigration law firm Karl Waheed Avocats told Bloomberg Law.

The March 2016 immigration law was one of the country's "first impulses to welcome and to retain talent in France," Sylvain Garguilo, Paris-based senior manager for global immigration at EY Société d'Avocats, told Bloomberg Law.

Through several implementation decrees, the 2016 law added new fast-track visa procedures under a so-called Passeport Talent program to attract top tech talent from abroad, particularly start-up founders, employees, and investors. The law also simplified rules on intracompany transfers of seconded employees, easing the review and approval process for visas and shortening processing times for assignees coming to France.

Easing Some Requirements, Tightening Others

"The 2018 law only goes a step beyond what we've seen in 2016," Garguilo said. "It does not radically change the scene in terms of options and immigration categories."

What it does do is better define certain categories of talented professionals and expand eligibility to other categories, Garguilo said. For example, the 2018 law extends the talent passport to individuals in senior legal or managerial positions, such as executive officers, and to individuals creating companies in France, though these latter "must be very well-trained."

"You have to demonstrate that you have a viable project with investment behind you and expertise and experience," Garguilo said. "Obviously, the aim is to attract individuals with higher qualifications, talent profiles, and specific skills."

Under the new legislation, people starting up companies will have an easier time meeting the requirement that their project be "innovative," Waheed said. While the earlier law required that start-ups qualify as "innovative" based on the tax code, the amendments give that responsibility to a public body, whose structure will be defined in a later decree.

Similarly, people "famous" in certain professions could get the talent passport under the 2016 law, but they had to be internationally famous. Now they just have to be "famous" in France, Waheed said.

While the new law eases some requirements, however, it tightens others, Waheed said.

Intracompany transferees, for example, will now have to have six months of previous employment in the home country affiliate rather than the three months required under the 2016 law. In addition, employees who have had intracompany transfers to France cannot be reassigned to the same position without a gap of at least six months in the home country or somewhere else outside France.

Controversial Visa Reform

Laws in France take effect on publication in the country's official journal, but individual measures often require additional implementation decrees to go into force. Unlike the 2016 law, the 2018 law contains just a few measures that will require such decrees, said Waheed. In particular, creating the public body for deciding if a start-up project is "innovative" will require a decree.

Another "potentially enormous" measure that would require a decree may never actually be implemented, said Waheed. That measure would allow the government to simplify the authorization regime for recruiting certain categories of employees, but only for companies that have "specific recognition by the government." Waheed believes that the government may experiment with a system in which government pre-approved sponsoring employers could self-process visa applications for certain employees, subject to audit by a government authority. That would be similar to a self-approval system used in the U.K.

The provisions laying out this program are vague and potentially controversial, however, and it's not clear when, if ever, the government will muster the political will to publish a decree to implement it, Waheed said.

To contact the reporter on this story: Rick Mitchell in Paris at correspondents@bna.com

To contact the editor on this story: Rick Vollmar at rvollmar@bna.com

For More Information

The text of Law No. 2018-778 is available here, of Law No. 2016-274 here, both in French.

For more information on French HR law and regulation, see the France primer.

Contact us at <http://www.bna.com/contact-us/> or call 1-800-372-1033

ISSN 2160-4975 (HR & Payroll Resource Center), ISSN 1523-2832 (Human Resources Report)

Copyright © 2018, The Bureau of National Affairs, Inc. Reproduction or redistribution, in whole or in part, and in any form, without express written permission, is prohibited except as permitted by the BNA Copyright Policy.