

French employment law newsletter



LEGAL UPDATE

- The Ministry of Employment has published on its website a [questions-and-answers](#) document detailing the measures for preventing professional exclusion for employees on sick leave (law 2nd August 2021).



CASE LAW UPDATE

- **Action for recognition of an employment contract:** The action by which a party asks to reclassify a contract into an employment contract, has the character of a personal action and is subject to a five-year limitation period. The starting point of this limitation period is the date on which the contractual relationship, whose qualification is challenged, has ceased.
Cass. Soc. 11 May 2022 n°20-14.421
- **Unfitness to work:** In the event an employee is declared unfit to work by the occupational doctor, the employer's obligation to redeploy the employee depends on the law in force on the day of the declaration of unfitness, regardless of the date on which the dismissal is finally notified.
Cass. Soc. 11 May 2022 n°20-20.717
- **Offence of moral harassment:** Acts of moral harassment are covered by both the Labour Code and the Criminal Code. Under the labour law, moral harassment is constituted independently of the intention of the author. However, the Court recalls that in criminal matters the author's intention must be demonstrated.
Cass. Crim. 22 February 2022 n°21-82.266
- **Optional profit-sharing agreement:** An optional profit-sharing agreement must be filed with the Labor administration within 15 days of the deadline date for its signature. Any delay leads to the loss of the right to social security exemptions for the first reference period.
Cass. Civ. 12 May 2022 n°20-22.367
- **Gross misconduct:** misappropriating the employer's customers/suppliers and setting up a system of hidden commissions constitute gross misconduct.
Cass. Soc. 21 April 2022 n°20-22.773
- **Termination by mutual agreement:** The obligation to pay an indemnity, in case of amicable termination of the employment contract, arises on the date of approval of the termination by the administration. Thus, when an employee dies after the approval of a termination by mutual agreement but before the date set for the termination of the contract, the indemnity is due to the deceased employee's heirs.
Cass. Soc. 11 May 2022 n°20-21.103
- **Social and Economic Committee (SEC) consultation:** When the implementation of rules imposed on the employer is likely to impact the working conditions within the company, the SEC must be prior consulted.
Cass. Soc. 21 April 2022 n°20-19.063
- **Professional elections:** It is up to the person claiming violation by the employer of its neutrality obligation to prove it.
Cass. Soc. 18 May 2022 n°20-21.529
- **Contractual and conventional benefits:** The Court specifies that in the event of competition between contractual provisions and provisions of a collective bargaining agreement, benefits having the same object, or the same cause cannot, unless otherwise stipulated, be cumulated, The most favourable of them apply.
Cass. Soc. 11 May 2022 n°21-11.240



NEWS

- Coblence Avocats is certified QUALIOPI. Please contact us for any training need. Find more information [here](#) (in French).
- 3rd Law Coffee Morning with Myrtille Lapuelle and Alexandra Briens in association with the Franco-British Chamber of Commerce & Industry "French employment law case law update". Conference in English and online, 28 June 2022 (10 am – 11 am). Registration on the [Franco-British Chamber website](#).