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Lionel Paraire was admitted to the Bar in 1997 and is founder of Galion. Lionel has a DESS de Droit des Affaires and a Magistère-DJCE (Masters in Business and Tax law) from the University of Montpellier.

He worked for six years with Cabinet Jeantet Associés, then worked at the firm Baker & McKenzie, and then Mayer Brown where he became Of-Counsel.

Lionel has been Senior Lecturer at the University of Paris XII in Labour Law and European Labour Law. He is a member of Avosial, EELA (European Employment Lawyers Association), ANDJCE (Association Nationale des Diplômés Juriste Conseil d'Entreprise) and IBA (International Bar Association). He is also Senior lecturer at the University of Montpellier I (DJCE).

He has developed an acknowledged expertise in the area of individual employment relations and high risk litigation and dispute resolution. He regularly assists companies with restructuring and the labour and employment law aspects of corporate transactions.

Moreover, he has written numerous articles for specialised press (Jurisprudence sociale Lamy, RF Social, l'Entreprise, l'Usine Nouvelle) and the national press (La Tribune). Lionel frequently takes part in conferences on varied subjects of labour and employment law and provides training for his clients. Lionel speaks French, English, Spanish and German.



QUESTION ONE

Has WFH/hybrid culture enabled businesses to broaden their talent search? What impact has this had on employment and skills availability in your jurisdiction?

Attracting and retaining talent implies knowing and addressing employees' expectations, keeping in mind that these expectations are constantly changing according to economic and social context. The best example today is hybrid working. Working from home has been strongly encouraged by the French government since the beginning of Covid-19 pandemic. Both employers and employees have seen that business was not harmed by remote working and could even improve productivity, notably in Paris and other large French cities with long employee commutes. Having employees teleworking one or two days a week is now the norm

Galion is an independent French business law firm dealing exclusively with labour and employment law and specialising in advice, litigation and dispute resolution. Close to its clients, Galion creates and develops 'made-to-measure' solutions for each of its clients, adapted to their needs, culture, business and organisation. Our approach is based on three fundamental points:

- Technical excellence in a context of increasing legal uncertainty.
- Pragmatic vision and a strong corporate culture

- Partnership, availability and commitment, essential in creating a close-working relationship. Galion provides advice on all labour and employment law issues, notably in individual employment relations; collective employment relations; reorganisation and restructuring; remuneration and employee savings schemes; assistance with the labour and employment law aspects of M&A transactions; URSSAF Audits and social security dispute resolution; Litigation and Dispute resolution; white collar crime litigation; work accidents, criminal offense of obstructing the works council.

within many companies, whatever their size. According to a recent study, 38% of French employees in the private sector are now teleworking on a regular basis, on average two days a week. It enables businesses to broaden their talent search, as 64% of French employers believe that hybrid work will allow them to attract and retain talent. On the employee side, 48% of teleworkers (63% among employees under 35 years old) are considering moving far away from their office, or even abroad.

The impact of hybrid culture is still largely unknown, but it has already impacted the labour market, especially regarding geographical mobility and workforce shortage in various sectors where teleworking is not possible (e.g. restaurants, hospitals, etc.). The situation actually depends on the business sector, as well as employees' duties within companies. Of course, not every function may be carried out remotely and not every company can be transformed into a full digital business.

QUESTION TWO

Proximity bias is becoming a critical issue in hybrid workforces – what do businesses need to be aware of and how can they ensure they are not discriminating against remote employees?

Under French labour law, employers have a general safety obligation provided by law vis-à-vis their employees, requiring them to take necessary steps to ensure their workers' safety and to protect their physical and mental health. This is an enhanced duty of care, which means that employers can avoid liability if they can prove that they have taken all the preventive measures provided by the code. The sustainable installation of teleworking requires rethinking the organisation of work and the company's operating methods to optimise the benefits and limit the negative impacts of teleworking (loss of a collective bond, difficulty in sustaining business culture, capacity for permanent adaptation, etc.).

Both employees and managers agree that the main prerequisites for a successful hybrid model are: network quality and IT security; a certain flexibility in the implementation of collective rules, and; evolution of managerial practices.

To be more efficient when they are on site, employees want to have an individual office or isolated spaces allowing them to concentrate or make phone calls, while also having communal spaces. They also want working methods to evolve towards a management more focused on trust, encouragement, taking initiatives, and the right to make mistakes. They also want more agility and flexibility in terms of time management.

Managers say they are ready to reorganise workspaces and to allow flexibility between on-site work and telework. Their priorities for successful work hybridisation lie in communicating with employees, measuring productivity, preventing occupational risks, and access to mobile digital tools.

Of course, HR must have a non-discriminatory approach to the different types of employees, based on objective and concrete elements, to establish a fair WFH policy: not all tasks and/or functions are 'teleworkable'.

TOP TIPS

Adapting employment contracts to a hybrid working model

✓ A hybrid working model implies adapting employment contracts, particularly about place of work, in order to specify where the employee will be authorised to work. Is on-site work required, and when is it needed?

✓ If the pandemic has made it possible to work mainly or exclusively from home, a company collective agreement is strongly recommended (sometimes required) or at least a written charter, which will notably define the rules of teleworking such as working hours, location, etc.

✓ The implementation of hybrid work also requires focusing on the prevention of risks of a new nature, that are sometimes less visible, called 'Techno-Social Risks' ('RTS' in French). These can be defined as 'a set of physical and psychological disorders incurred by an employee when the latter evolves in a work situation where information and communication technologies (ICT) occupy a central place in the realisation of their mission'. The 'document unique d'évaluation des risques' (DUER), which transcribes the results of the professional risk assessment, will need to be updated in order to take into consideration new risks such as isolation, hyper-connection, addictions, etc.

QUESTION THREE

How can businesses ensure that their onboarding and training processes remain fair and balanced in a hybrid work culture?

Working from home increases time devoted to human resources and administrative management tasks, team leadership, individual follow-up and activity coordination. By complicating individual exchanges and team cohesion, teleworking also has a mainly negative impact on team management.

It is also important to adapt management styles to this way of working, with less control and more interaction with the employee. More than ever, the manager must guarantee the cohesion of the team, by inventing new sociability rituals; by communicating more and better, and; by establishing a solid relationship of trust.

The employer's power of management or supervision must still be exercised remotely, while respecting the teleworker's privacy. The collective agreement drawn up by the employer must determine the time periods during which the employer can contact the teleworker.

Since 2016, French employees have a 'right to disconnect' and companies have to include this topic in annual mandatory negotiation, as well as regulating the use of digital tools to ensure respect for rest and leave times as well as personal and family life.