

# Droits et devoirs des salariés et employeurs

Contrat travail = lien subordination → employeur dt rspct engagement contractuel

<b>Drts sal</b>	Être assigné à 1 tâche	S'assu que clauses contrat rspct
	Percevoir salaire	Avoir couverture so
	Bénéficier contrepartie pr heures supp Obt CP / RTT	Alloes frais transport à 50%
<b>Obligations sal</b>	Effectuer travail en conformité	Loyauté et bonne foi avec employeur (sal ne dt pas faire action concurrentiel en dehors tps travail même en période suspension contrat)
	Rspct horaires, contrat travail, règlement int et sécu	Discrétion et confidentialité
<b>Drts employeur</b>	Embaucher	Diriger travail
	Rompse contrat avec rspct loi	
<b>Obligations employeurs</b>	Travail pr sal en rapport avec obj embauche et lieu travail	Rspct règlement travail
	Rspct clauses contrat signé avec sal → à défaut clauses, il engage sa resp contractuelle (adaptée à nat contrat travail)	Verser salaire au sal
	Rspct vie perso et mode vie sal	Dt veiller santé et sécu travail sal

- **Sal pt s'habiller comme il veut** → employeur dt imposer port uniforme si cela rép à impératifs sécu ou intérêts entreprise
- Employeur dt assu formation pr adaptation sal au poste travail et dt fournir certificat travail quand expire contrat
- **Heures supp (220 h supp max par an) →** 25% pr 8 premières h → commence à partir 36<sup>e</sup> h  
50% pr les autres

Clauses contrat travail		
Liberté contractuelle permet à employeur choisir clauses → facultatif, ms dt rspct ordre pu (sr lequel civils vivent)		Crtines clauses interdites car contraire à ordre pu → nullité contrat
<b>Interdiction</b>	<b>Clause couperet</b>	Rupture contrat à cause âge
	<b>Clause indexation</b>	Index salaire sr SMIC sans lien avec act entreprise
	<b>Clauses attributives juridiction</b>	Compétences autres que CPH
	<b>Clauses compromissaires</b>	Parties soumettent litige éventuel à procédure arbitrage
	<b>Clauses portant atteintes à liberté et vie privée</b>	
	<b>Clauses contrares à ordre pu</b>	Dérogation à durée max travail / durée CP ...

Période essai		
Permet à employeur éval compétences sal	S'impose au sal dès qu'elle figure ds contrat travail	Contrat pt être rompu pdt période par les 2 parties
Employeur qui connaît compétences sal ne pt imposer période essai → ms si nvlls fonctions sal → possible période probatoire (permet pas rompre contrat si sal donne pas satisfaction → réintégrer ds fonctions antérieures)		

# Contrat Et Devoir

**FRANCOIS.. DIESSE**



## **Contrat Et Devoir:**

LE DEVOIR DE COOPERATION DANS LE CONTRAT FRANCOIS.. DIESSE,1998 LE DEVOIR DE COOPERATION EN RAISON DE L EFFUSION DES PRINCIPES MORALISATEURS ET DES POSSIBILITES D ADAPTATION AUX CIRCONSTANCES QU IL ASSURE AU CONTRAT EST LA VOIE PAR LAQUELLE LE CONTRAT BENEFICIE A LA FOIS DE LA SECURITE JURIDIQUE ET DE LA STABILITE NECESSAIRES DANS LES TRANSACTIONS CE DEVOIR TEND A FAIRE DE LA SATISFACTION CONTRACTUELLE RECHERCHEE LE POINT DE RENCONTRE ENTRE LA PRESTATION PROMISE PAR LE DEBITEUR ET L ATTENTE LEGITIME DU CREANCIER TOUT EN ASSOCIANT CE DERNIER A L EXECUTION DU CONTRAT SON ROLE DEVENANT ALORS ACTIF ALORS QUE LE DROIT COMMUN L AVAIT CONFME DANS UNE CERTAINE PASSIVITE IL RESULTE DE CE RAPPROCHEMENT DES PARTIES ET DE LEURS BESOINS UNE NOUVELLE CONCEPTION DU CONTRAT DANS LAQUELLE L EXIGENCE DE LA LOYAUTE ET DE LA SOLIDARITE LA RECHERCHE DE L ENTENTE ENTRE LES PARTIES ET DE L EFFICACITE DANS L EXECUTION DU CONTRAT DEVIENNENT L EPINE DORSALE DES RAPPORTS CONTRACTUELS DANS CETTE CONCEPTION EN EFFET TENIR COMPTE DE L INTERET DE L AUTRE PARTIE OU SE METTRE A SA PLACE DANS L EXECUTION DES OBLIGATIONS OU DANS L EXERCICE DES DROITS NES DU CONTRAT TRANSFORMENT LES CONTRACTANTS EN VERITABLES PARTENAIRES CONSIDERES JUSQU A LORS COMME DES PROTAGONISTES PARCE QUE L ON ESTIME LEURS INTERETS EN CONFLIT LE DEVOIR DE COOPERATION DONT L IMPORTANCE POUR LES PARTIES COMME POUR LE CONTRAT EST INESTIMABLE NE PEUT CEPENDANT PAS ETINCELER DE TOUT SON ECLAT FAUTE DE NATURE JURIDIQUE PRECISE DE BASE LEGALE STABLE ET SOLIDE ET DE REGIME PROPRE A CETTE DEFAILLANCE JURIDIQUE S AJOUTE LA COMPLEXITE DE SA MISE EN OEUVRE LE DEVOIR DE COOPERATION NE POUVANT S INSCRIRE DANS LES DEFINITIONS ET CATEGORIES JURIDIQUES CLASSIQUES NI S ALIGNER DERRIERE LES CONCEPTS CONNUS DOIT ON ALORS FORCER SON INTEGRATION DANS LES SCHEMAS JURIDIQUES EXISTANTS OU AU CONTRAIRE LUI TAILLER UN REGIME PROPRE QUITTE A RENSERISER LES IDEES RECUES A REMETTRE EN CAUSE LES REGLES ET PRINCIPES

*Économie, droit* Taylor Anelka,Nadine Forté,Myriam Hallouin-Barat,Yolaine Métay,2005 *Réformer le droit des contrats ?* Pascal Ancel,André Prüm,2020-01-16 un moment o la France a adopte une importante r forme de son droit des obligations et o la Belgique s appr te faire de m me dans le cadre d une refonte g n rale de son Code civil le Luxembourg troisi me pays avoir conserv le code de 1804 comme base de sa l gislation civile se trouve confront la question de savoir s il doit lui aussi proc der une r forme similaire et si oui quelles voies il doit suivre dans cette r forme Doit il coller au plus pr s au syst me fran ais qui lui servait jusque l principalement de mod le Doit il compte tenu du contexte luxembourgeois sp cifique choisir sa propre voie en combinant des solutions issues des r formes fran aise et belge avec des solutions venues d autres traditions et en s inspirant ventuellement des textes internationaux et des projets europ ens Le pr sent ouvrage est tir des travaux d un colloque qui s est tenu l Universit du

Luxembourg les 22 et 23 novembre 2018 Il rassemble des contributions actualis es d auteurs allemands anglais belges  
cossais fran ais qu b cois et suisses qui pr sentent chacun leur droit ainsi que les instruments europ ens et internationaux  
pertinents autour de six th mes fondamentaux du droit des contrats Chaque chapitre est compl t d un riche mat riel de droit  
compar Au del d une r flexion sur une future r forme du droit luxembourgeois l ouvrage devrait int resser tous ceux qui  
souhaitent comprendre les ressemblances et les divergences d approches dans les sept syst mes juridiques et les diff rents  
instruments europ ens et internationaux analys s sur les th mes essentiels du droit des contrats retenus **Le devoir de  
coopération durant l'exécution du contrat** Christine LeBrun,2011 Sous le r gime du Code civil du Bas Canada le devoir d  
ex cuter le contrat de bonne foi tait une condition implicite de tout contrat suivant l article 1024 C c B C Le 1er janvier 1994  
ce devoir a toutefois t codifi l article 1375 du Code civil du Qu bec Parall lement ce changement le contrat a subi plusieurs  
remises en question principalement en raison des critiques mises contre la th orie de l autonomie de la volont En r ponse ces  
critiques la doctrine a propos deux th ories qui supposent une importante coop ration entre les contractants durant l ex  
cution du contrat savoir le solidarisme contractuel et le contrat relationnel La notion de bonne foi a aussi voulu r cement  
passant d une obligation de loyaut consistant g n ralement en une abstention ou en un devoir de ne pas nuire autrui une  
obligation plus active d agir ou de faciliter l ex cution du contrat appel e devoir de coop ration Ce devoir a donn lieu plusieurs  
applications dont celles de renseignement et de conseil Ce m moire tudie la port e et les limites du devoir de coop ration Il en  
ressort que le contenu et l intensit de ce devoir varient en fonction de crit res tenant aux parties et au contrat Une tude plus  
particuli re des contrats de vente d entreprise et de franchise ainsi que des contrats conclus dans le domaine informatique  
indique que le devoir de coop ration est plus exigeant lorsque le contrat s apparente au contrat de type relationnel plut t qu  
au contrat transactionnel Le cr ancier peut entre autres choses tre oblig d aider son d biteur d faillant et m me de ren gocier  
le contrat devenu d s quilibr en cours d ex cution bien que cette derni re question demeure controvers e Le devoir de coop  
ration n est cependant pas illimit parce qu il s agit d une obligation de moyens et non de r sultat Il est galement limit voire  
inexistant lorsque le d biteur de cette obligation est tenu d autres obligations comme un devoir de r serve ou de non ing  
rence lorsque le cocontractant est de mauvaise foi ou qu une partie r silie unilat ralement le contrat ou d cide de ne pas le  
renouveler **Le droit des contrats en schémas** Johan Dechepy-Tellier,Johanna Guillaumé,2021-07-13 L objectif de la  
collection Le droit en sch mas est de proposer des ouvrages facilitant la compr hension et la m morisation des questions  
juridiques Chaque question est ainsi envisag e selon deux approches juxtapos es le cours traditionnel en page de gauche des  
sch mas en page de droite Tr s didactique ce manuel de droit des contrats a t con u partir de trois choix m thodologiques la  
mise en avant des distinctions fondamentales la reprise des m mes probl mes sous des angles diff rents un effort de mise en  
perspective afin de faciliter la r flexion et la compr hension des continuit s et des ruptures Il est destin aux tudiants de  
Licence 2 et Master de Droit aux candidats aux concours d acc s au CRFPA et l ENM *League of Nations Publications*

,1929 **Actes Passés À la Session de la Législature de L'état de la Louisiane** Louisiana,1845 Laws for the Government of the District of Louisiana Passed by the Governor and Judges of the Indiana Territory Louisiana,1846 *De la responsabilité des États en matière de guerre civile touchant les dommages causés à des ressortissants étrangers ...* Paul Breton,1906 **Acts Passed at the ... Session of the Legislature of the State of Louisiana ...** Louisiana,1846 Semiotica ,1989 **Le devoir de loyauté dans l'exécution du contrat** Yves Picod,1989 **Traité de la responsabilité contractuelle en matière d'incendie** Gustave Huber,1898 Papers Presented to the International Seminar on the Philosophical Foundation of Human Rights, 9-13 June 1980, Ankara Ioanna Kuçuradi,1982 **Pandectes françaises périodiques** ,1899 Revue de Droit de McGill ,1981 *Jurisprudence générale* ,1897 *Manuel républicaine de l'homme et du citoyen* Charles Renouvier,1904 Droit commercial 5ed - Actes de commerce, commerçants, fonds de commerce, contrats commerciaux, concurrence, instruments de paiement et de crédit Dimitri Houtcieff,2022-10-06 Ce manuel présente les notions essentielles du droit commercial et les évolutions récentes auxquelles cette matière perpétuellement en mouvement a donné lieu. Sans négliger les fondamentaux, il propose une étude synthétique des actes de commerce des commerçants, des fonds de commerce, des principaux contrats commerciaux, du droit de la concurrence et des instruments de crédit et de paiement. *Histoire de la Science Politique Dans Ses Rapports Avec la Morale* Paul Janet,1887

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