


Financing adult learning database

Name of the instrument - Local language	Clause de dédit-formation
Name of the instrument - English translation	Payback clause
Scheme ID	91
Country	 France
Reporting year	2015
Type of instrument	Payback clause
Type of entry	Single instrument

Short description	Employers and employees can agree on a payback clause. The courts have defined several principles to be respected in the context of the implementation of the payback clause. For example, training expenditures incurred by the company should exceed legal obligations (imposed by law or collective agreement) to fund vocational training. The retention period should not be excessive. The duration may be variable, typically 2 to 5 years, and must be related to the duration of the training and expenditures incurred by the employer. The payback clause only applies in case of resignation of the employee; it cannot be implemented if the employment contract has been terminated at the employer's initiative (even in cases of dismissal for serious misconduct).
Short description of the related instruments	nap

Level of operation	National
Name of a part of the country	nap
Name of the region (for regional instruments)	nap
Name of the sector (for sectoral instruments)	nap
Relevance	Key scheme

Legal basis	No law determines the arrangements for implementing the payback clause, but courts had the opportunity on numerous occasions to rule on its conditions of validity. The Court of Cassation had the occasion to address the question of their validity in a judgement dated 17 July 1991, which determined that they were legal but within certain limits only.
Operation/management	<p>The courts have defined several principles to be respected in the context of the implementation of the payback clause:</p> <ul style="list-style-type: none"> - training expenditures incurred by the company should exceed its obligations to fund vocational training (imposed by law or collective agreement). Training expenditures which the company seeks reimbursement of must not enter the framework of its legal or contractual obligation to finance training, nor have been supported (or reimbursed) by an OPCA, nor have been covered by a public grant. - a written agreement (or amendment to the employment contract) must be signed prior to the training. The clause must specify the dates, nature, duration and actual cost of the training funded by the company, and the specific terms of reimbursement by the employee. A gradual reduction of the reimbursement depending on the commitment period may be provided (e.g. EUR 6 000 if the employee resigns before 1 year, EUR 4 000 if he resigns before 2 years, EUR 2 000 if he resigns before 3 years). - the commitment period should not be excessive. The duration may be variable (typically 2 to 5 years) and must be related to the duration of the training and expenditures incurred by the employer. The judges verify that the duration is not "manifestly excessive" or disproportionate to the costs incurred by the company. The clause must not deprive the employee of his right to resign. - the payback clause only applies in case of resignation of the employee. It cannot be implemented if the employment contract has been terminated at the employer's initiative (even in cases of dismissal for serious misconduct) - the amounts reimbursed by the employee under the payback clause must be allocated by the company to actions in its training plan.
Eligible group(s)	Employers, employees
Group(s) with preferential treatment	None
Education and training eligible	Any - but payback clauses are mainly used for costly and longer training.
Source of financing and collection mechanism	Employer, employee
Financing formula and allocation mechanisms	The amount to be reimbursed must correspond to actual costs incurred by the employer and should be clearly mentioned in the signed document by the employee and should not be "manifestly excessive".

Volumes of funding	na
Beneficiaries/take up	na
Monitoring/evaluation reports available	na
Most relevant webpage - in English	na
Most relevant webpage - local language	http://www.opcalia.com/telecharger/fiches/fiches-focus/la-clause-de-ded...
Sources	http://www.opcalia.com/telecharger/fiches/fiches-focus/la-clause-de-ded...