

# A Study on the System of Residence Preferences for Foreign Investors in France

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**Abstract:** *As a member of the European Union (EU), France's legal system for foreign investment includes the provisions of EU law and relevant domestic legislation. EU law is the prerequisite and framework for domestic legislation to promote foreign investment. Without violating the relevant treaties signed by the EU and EU law, France can formulate its own investment management policy according to its own national conditions. In recent years, in order to promote foreign investment, France has been seeking for innovation and change, and has carried out a series of reforms on the legal system for foreign investment on the basis of compliance with the investment-related laws and regulations at the EU level. The reform of France's legal system for promoting foreign investment mainly focuses on the issuance of visas for high-end talents and foreign students to attract foreign investors, as well as multi-type and multi-level tax incentives to attract foreign-invested enterprises. However, the effectiveness of the reform of France's legal system for promoting foreign investment has been affected to some extent by the complicated tax collection and management system and the tilted protection of employees in the labor law. Through a series of studies, this paper attempts to sort out the overall thinking and specific initiatives of France's reform of its legal system for promoting foreign investment, and objectively assess its impact and effectiveness, with a view to summarizing the lessons that can be drawn from China's efforts to improve its legal system for promoting foreign investment.*

**Keywords:** France; legal regime for the promotion of foreign investment; residence permits for foreigners; admission of top talent; innovation.

## 1. OVERVIEW OF FRENCH LEGISLATION TO PROMOTE FOREIGN INVESTMENT

France's opening up to foreign investment has gone through a gradual development process, with its attitude towards foreign investment ranging from restriction to acceptance to introduction, and in this process, the French legal system for promoting foreign investment has also been gradually improved from scratch.

As one of the member states of the European Union (EU), France has direct effect and direct applicability of the EU law, and at the same time, under the framework of the EU legal regulation, France has formulated its own laws and regulations on the promotion of foreign investment. Therefore, the foreign investment promotion legislation applicable in France includes both EU law and French domestic law.

### a. European Union Law

According to the Treaty on the Functioning of the European Union (TFEU)<sup>1</sup>, the EU's investment policy decisions are in the hands of the member states, who may formulate their own investment management policies based on their own national circumstances, as long as they do not violate the EU's treaties or laws. The legal regimes of EU member states for promoting foreign investment are based on compliance with EU investment-related provisions, which currently cover taxation, national security clearance, agriculture, employment, small and medium-sized enterprises (SMEs), the environment, energy, procurement, trade in services, intellectual property rights, and other aspects of EU investment-related policies.

For a long time, from the perspective of security issues, the EU has not had measures to review foreign direct investment covering the entire EU area. Therefore, the European Commission and member states have been exploring a set of pan-EU countermeasures to provide stronger European interests, strong protection that goes beyond existing fragmented policies across countries. Promoted by member states such as Germany, France, and Italy, on December 5, 2018, the Council of the European Union approved a draft framework for EU review of foreign direct investment, namely the draft EU FDI screening framework. According to the framework, the EU's decision on whether to intervene in foreign direct investment should take into account public order and security factors. The framework agreement does not attempt to unify the review mechanisms of the member states or establish an EU-wide review mechanism, nor does it obligate all member states to establish a review mechanism. Rather, its purpose is to strengthen the cooperation and increase transparency.

On April 10, 2019, the EU Foreign Direct Investment Review Regulations came into effect, and will be fully implemented on October 11, 2020. The Regulations established the review framework for foreign direct investment in the EU. The foreign investment review mechanism is mainly aimed at investors from non-EU countries. It aims to enable the EU to better identify, assess and mitigate potential risks in the field of security or public order, and to solve the acquisition of EU by foreign investors

<sup>1</sup> Formerly the Treaty establishing the European Economic Community, which entered into force in 1958, the Treaty on the Functioning of the European Union (TFEU), together with the Treaty on European Union (TEU), constitute the basic treaties of the European Union, which are fundamental norms of the Union that have the same constitutional status. They create the institutions of the Union and regulate their competences, procedures and obligations. All acts of the Union cannot exceed the scope of the powers granted by the two Treaties.

outside the EU in sensitive and strategic areas. company problems.

In addition, EU sectoral laws also have a certain impact on foreign investment, such as the EU Common Agricultural Policy, the EU White Paper on Energy Policy, etc. However, most of these sectoral laws are framework laws, and if the member states do not formulate more detailed legal norms under their frameworks, it is difficult for these EU-level framework laws to play their roles in practical application.

## **b. French Law**

France has not enacted legal standards such as the Law on Foreign Investment, which specifically targets foreign-invested enterprises, nor does it have a single law governing foreign investment.

The Law on Financial Relations with Foreign Countries No. 66-1008 of December 28, 1966, which was repealed in 2000, was the first legal document regulating the attraction and encouragement of foreign investment in France, and the Law on Foreign Investment in France No. 66-1008 of December 28, 1966, which was repealed in 2000, was the first law regulating foreign investment in France.

The French Monetary and Financial Code is a collection of legislative and regulatory provisions relating to banking, financial and insurance activities, of which Article L.151-1 establishes the fundamental principle of "freedom of movement of funds between France and foreign countries".

The principle of national treatment arose in France at the end of the 18th century during the bourgeois-democratic revolution, which culminated in the publication of the Declaration of the Rights of Man in 1798, which challenged feudal rule in Europe, with liberty and equality as its core and principles. What is more progressive is that the principle of freedom and equality was not only applied to French nationals, but also extended to the civil rights of foreigners in France in domestic law. Subsequently, Article 11 of the French Civil Code of 1804 stipulates: "Foreigners who have a treaty between their own country and France that allows Frenchmen to enjoy certain civil rights in their own country shall enjoy the same civil rights in France."<sup>2</sup>

Traditionally, national treatment is a preferential system that grants foreigners who have a specific relationship with their own country the same civil rights as nationals of their own country. However, with the increasing frequency of international political, economic and cultural exchanges, the scope, connotation and object of the national treatment system have broken through the scope of the original civil rights and have been extended to a number of fields of economic life, and this breakthrough is particularly prominent in the field of international investment, and nowadays foreign investors and their investments in foreign-invested enterprises are able to enjoy full national treatment.

National treatment is a basic foreign investment policy in the mature stage of foreign investment. The French government applies national treatment to FDI, and French laws and regulations apply not only to domestic enterprises but also to FDI enterprises. For example, the Company Law, the Labor Law, the Commercial Law, the Tax Law, the Contract Law, etc. are applicable to French people as well as foreign investors.

France is one of the representative countries with fewer restrictions on foreign investment access. In terms of foreign investment access, France implements basically the same policy for domestic and foreign-funded enterprises, and the fields that allow French investors to enter generally have no restrictions on foreign investors. Foreign-funded projects are basically subject to a registration and filing system, with few approvals. However, foreign investment in certain fields requires mandatory declaration and approval. For example, for transactions in which a foreign investor acquires 10% or more of the equity or voting rights of a French company, a declaration form must be filed with the credit agency for statistical purposes, providing a detailed description of the transaction in question.

The regulations on foreign investment in France do not restrict the form of foreign companies' establishment in France, and foreign companies may enter the French market by setting up offices, branches and subsidiaries, depending on the strategy of the domestic investor and the degree of independence of the company from the parent company.

## **c. Bilateral agreements on investment promotion**

France has inked more precise and comprehensive bilateral agreements on investment promotion with a number of nations, focused mostly on taxation, entrepreneurship, and trade freedom, on the basis of the framework bilateral investment accords the European Union has signed.

In the case of the Sino-French bilateral agreement on investment promotion, When China and France established diplomatic relations in 1964, bilateral trade was only \$100 million; in June 1984, China and France signed the Agreement on the

<sup>2</sup> Article 11, Code civil : L'étranger jouira en France des mêmes droits civils que ceux qui sont ou seront accordés aux Français par les traités de la nation à laquelle cet étranger appartiendra.

Encouragement and Protection of Investments (APEI), which was re-signed in November 2007 during then-President Nicolas Sarkozy's visit to China. This agreement includes provisions on the definition of investment, authorization, treatment, subrogation, expropriation and compensation conditions, and dispute resolution procedures that require China and France to treat each other fairly and equitably, and no less favorably than third-country investors.

Premised on the Agreement on the Encouragement and Protection of Investments, China and France have also signed a series of investment-related agreements, such as the Financial Protocol on Economic and Technical Cooperation signed in November 1978, the Maritime Transportation Agreement signed in April 1996, the Agreement on Cooperation in Environmental Protection and the Agreement on Cooperation in the Development and Utilization of Nuclear Energy signed in 1997, the September 1998 Agreement on Intellectual Property Rights Cooperation Agreement, the Joint Declaration of the Governments of China and France on Agricultural Cooperation signed in April 2006, the Agreement between the Government of the People's Republic of China and the Government of the French Republic on Cooperation in the Field of Traditional Chinese Medicine signed in March 2007, the Agreement between the Government of the People's Republic of China and the Government of the French Republic on Social Security signed in 2016, and the Mutual Recognition of Driving Licenses for Exchange of Possession Agreement signed in February 2017.

In addition, along with China's "The Belt and Road Initiative" initiative and active international production capacity cooperation, China and France have been cooperating in the fields of economy, trade, investment, industry, infrastructure and other areas of mutual benefit, and have helped the countries concerned to improve their independent development capacity, which has brought development opportunities to more countries. In June 2015, China and France jointly issued the Cooperation Agreement on the Development of Third-Party Markets, taking the lead in third-party market cooperation in the world and opening up a new mode of North-South cooperation. Chinese and French enterprises are exploring and carrying out various forms of third-party cooperation in Nigeria, Uganda, Mozambique, Guinea and other African countries. Although the market for North-South cooperation is established in a third party, it has also opened up new channels for the flow of foreign investors and foreign enterprises in France.

On April 6, 2023, the Great Hall of the People in Beijing hosted the fifth meeting of the China-France Entrepreneurship Committee (CFEC), at which 36 businesses from both countries signed 18 agreements of cooperation in the manufacturing, green, new energy, and innovation sectors. During the meeting, representatives of Chinese and French businesses from Bank of China and BNP Paribas, the chairmen of the Entrepreneurship Committee, as well as China National Nuclear Corporation (CNNC) and Electricite de France (EDF), among others, held discussions on two topics, namely responding to global challenges together and promoting prosperity and development through cooperation, and offered recommendations for strengthening China-France economic and trade cooperation. Participating companies expressed that they would continue to seize new opportunities for China's high-quality development, jointly maintain the stability and smoothness of China-France and China-Europe industrial supply chains, and strengthen cooperation in nuclear energy, aviation, medicine, finance, agricultural food, innovation, new energy, rail transit and other fields. cooperation aimed at fostering a climate of cordial coexistence and mutual advantage.

## **2. PREFERENTIAL RESIDENCE REGIME TO ATTRACT FOREIGN INVESTORS**

In the 2017 White Paper on Chinese-funded Enterprises in France, Chinese-funded enterprises believe that the policy of facilitating visa and residence procedures for expatriates will have a major impact on France's attraction of national investment, such as visas for high-end talents. If they want to improve France's To attract foreign investment, simplify the procedures for expatriate employees to apply for visas and residence permits are necessary reform measures.

### **a. Reform of Visa for Top Talents**

Article 40 of the Asylum and Immigration Law provides detailed classification and regulations for high-end talent visas. After this legal provision is incorporated into the Aliens Code, it is the Code's L. 313-20 to L. Article 313-22 and Article R. 313. According to this article, France will establish a 4-year visa for high-end talents. Using visas for high-end talents, foreign investors going to the French market will simplify the relevant procedures for themselves and their employees to go to France. This type of visa is quickly issued by the consular department, enabling the holder to obtain residence for many years almost automatically after arriving in France. certificate. This type of visa is mainly aimed at high-quality and special-skilled groups, including investors, employees, and internationally renowned personalities. The 10 different types of talent visas specify their respective standard conditions in detail.

### **b. Reform of job-seeking or business start-up visas for international students**

Before the revision of the Asylum and Immigration Law, foreign students who obtained a bachelor's degree, a master's degree or above in France could apply for a temporary residence permit for foreign students within one year from the date of obtaining the diploma in order to find a job in France. After a successful application, they have one year of legal residence in France to

search for work. After the revision of the Asylum and Immigration Law, Article 41<sup>3</sup> abolished the temporary residence permit for foreign student employment and replaced it with the residence card for foreign student employment or entrepreneurship. The new policy allows students to apply for a one-year residence visa within four years of receiving their diploma in order to return to France, find a job or start a business.

### **c. Impact of the reform of the residence permit system on the promotion of foreign investment**

The subsidiary benefit of the "Premium Talent Visa" is the liberalization of the visa for spouses and children of holders of the "Premium Talent Visa," who are entitled to the same duration of stay as holders of the "Premium Talent Visa" in order to strengthen France's attractiveness and capacity to receive internationalized talents and skills. Spouses and children over the age of 18 with a Premium Talent Visa are eligible for a "family reunification" residence visa, which has the same impact when entering France.

On the one hand, this preferential policy alleviates the concerns of talent visa holders, who may relocate their entire family to France, demonstrating the humanization of the talent visa policy. Many spouses and children of talent visa holders, on the other hand, choose to take advantage of this good opportunity to receive education in France after their arrival in France, even though they are different from ordinary foreign students who apply for different types of visas and residence permits, but they are also a type of foreign student. The talent visa encourages outstanding talent while also increasing the number of overseas students in France.

In addition, the four-year validity period of the visa for high-end talents allows employees and employers to sign labor contracts that are valid for up to four years, which, to a certain extent, guarantees the stability of the work and life status of foreign employees and avoids the hassle of replacing the residence permits of foreigners every year.

On the other hand, this also improves the stability of enterprise employment, because the talent visa is mainly aimed at legally qualified technical talents, innovative talents, scientific research personnel, patentees, etc., whose work generally has strong confidentiality, complicated technology, Technical complexity and so on. The longer the labor contract period, the easier it is for employees to learn business and technology, and the easier it is for employers to protect their economic interests, avoid the replacement of personnel in key positions, and reduce losses caused by frequent labor relations.

For foreigners, France's complicated administrative procedures and low administrative efficiency seem very unfriendly. With the increase of international investment, in order to attract more investment and improve the service, the administrative efficiency of France has become one of the problems that the French government needs to solve.

The implementation of top talent visas has made detailed arrangements and classifications for foreigners' visas in France, unified the standards of various top talent visas, and solved unclear legal regulations, contradictions between superiors and subordinates, imperfect subsidiary laws, and weak execution capabilities of local administrative agencies. The simplification of administrative procedures for top talent visas has reduced the workload of administrative agencies, reduced administrative costs, shortened the time limit for approval, increased the speed of approval, and increased the rate of issuance and success of French visas.

Meanwhile, as the first bridge connecting France and foreign investors, overly complicated visa procedures will directly affect the enthusiasm of foreign investors and their impression of France. The simplification of administrative procedures is conducive to improving the service quality of the French government, and the investor-friendly administrative policy reflects France's respect for foreign investors and can leave a good impression on foreign investors.

The reform of the international student job-seeker or entrepreneur visa extends the period during which a student can return to France to find a job or start a business, and, in contrast to visas for top talent, the international student job-seeker or entrepreneur visa has a lower threshold, with no requirements as to whether or not an internship has already been found, a minimum salary requirement, or whether or not there is a source of income. The International Student Job Seeker or Entrepreneur Visa is a benefit for French students aimed at increasing the attractiveness of France and improving the reception of international talent, as well as retaining the best international talent studying in France.

## **3. LESSONS FOR CHINA FROM FRANCE'S RESIDENCE PREFERENCE SYSTEM FOR ATTRACTING FOREIGN INVESTORS**

China's attraction to foreign capital is still in its infancy, and both high-quality international investment and domestic economic development are required to drive each other. In terms of foreigner entry and residency management, it is vital to progressively attain full openness and attract talent. China can refer to the reform of French students' job hunting or entrepreneurial visas, and

<sup>3</sup> Article 41 : IV. L'étranger qui a obtenu dans un établissement d'enseignement supérieur habilité au plan national un diplôme au moins équivalent au grade de master ou figurant sur une liste fixée par décret et qui, à l'issue de ses études, a quitté le territoire national peut bénéficier de la carte de séjour temporaire prévue au I, dans un délai maximal de quatre ans à compter de l'obtention dudit diplôme en France. LOI n° 2018-778 du 10 septembre 2018 pour une immigration maîtrisée, un droit d'asile effectif et une intégration réussie.

independently formulate high-end talent visa categories related to foreign students, so that more foreign students can become China's international investors. Foreign investment in China will grow over time, increasing its impact on the global arena.

#### 4. CONCLUSION

The main feature of the reform of the French foreign investment legal system is that it attaches great importance to the introduction of talents, especially the introduction of high-end talents and innovative talents. Innovation ability is the first driving force leading development, which can promote the transformation of the French economy to high-quality, which is also the trend of international investment reform and international economic development.

France is gradually becoming the best alternative for international investment in Europe as the Brexit process unfolds. France has implemented significant adjustments to its legal structure to encourage foreign investment in order to capitalize on this international opportunity. First and foremost, France has a favorable legislative framework for international investment and accords "national treatment" to foreign direct investment. Except in specific areas where foreign investment is subject to mandatory declaration and licensing, foreign investors have no restrictions in areas where French investors are permitted to enter. France, as a mature codified country, has a faultless legal system and a solid structure in place to defend investors' lawful rights and interests. Secondly, in order to attract and retain more international investment talents, France uses convenient foreigner residence permits for foreigners with top talent visas and student job-seeking visas, solving the problem of difficulties in entry and residence for some international investors, and promoting the mobility of employees of multinational enterprises, thus driving the rapid development of the French economy.

France's legal system for promoting foreign investment is relatively mature and complete, and has been developed gradually over half a century. Outdated laws have been eliminated to adapt to new trends in the international economy, and they have even taken the lead in reforming the visa and residence systems for foreign investors. However, due to the relatively large reforms in France, there are also problems that go too far. At the same time, the overly strict labor protection laws and complicated taxation system have also caused certain obstacles to the integration of foreign investors.

As a mature developed country, France's legal system for promoting foreign investment has something my country can learn from, especially France's innovative changes in recent years, such as attracting high-end talents, optimizing industrial structure, and fair competition between domestic and foreign companies. However, our country is still in the critical growth period of attracting foreign investment. We cannot completely copy the legal system of France or any other country. We must combine our national conditions, take its essence, and innovate it into a part of the socialist legal system with Chinese characteristics.

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