

New forms of employment Collaborative employment, France

Case study 9: AdPartners

Umbrella companies in France provide an alternative to self-employment by offering the participants – known as co-workers – the benefits of France’s social security system for salaried workers. AdPartners, a young umbrella company, has been providing this type of work mainly for middle-aged business executives, who have been made redundant or who work for themselves.

Introduction

This case study is based on AdPartners, a young umbrella company created in 2008 and based in Lyon, France. Data from face-to-face interviews with AdPartners’ managing director and two co-contractors were used, along with a phone interview with client company Agitech, plus general literature on umbrella companies and from trade union websites.

The new form of employment analysed in this case study is particular to France. There is no easy translation of the term *portage salarial* but the closest is the British concept of an ‘umbrella company’. Although quite different in their legislative framework and original purpose, UK and French umbrella companies share the same principles of functioning.

Umbrella companies are different from employer groups (*groupements d’employeurs*), another French model of employee sharing, in many respects and primarily because they have been designed to meet different needs. Employer groups were created to help employers, in the agricultural sector originally, to share a workforce that was mainly seasonal. Seasonal workers were generally employed on short-term contracts and the goal was to provide them with constant activity throughout the year.

Umbrella companies have been created to provide an alternative to self-employment by offering the participants – also called co-workers or co-contractors – the benefits of the social security system for salaried workers. Benefits include retirement and pension benefits, as well as unemployment, maternity and sickness benefits.

The co-workers are mainly independent executives who (usually) receive their income in the form of consulting fees and work on tasks which vary in length, but have a maximum duration of three years. On behalf of the co-workers, the umbrella companies take charge of billing the clients, doing the paperwork, and transforming fees into a salary. In a way, umbrella companies are providing a service to their workers who have to pay a fee. In order to prevent such companies from actually working like temporary work agencies (without having the relevant legal status), umbrella companies are not allowed to directly help their co-workers find client

companies. They are only allowed to provide support to workers who wish to work as independents but maintain the benefits of a salaried employee.

The economic model of umbrella companies is drawn from the UK's [Managed Services Company](#) system. A percentage of the revenues (about 10% on average, but with some variation between companies) is paid to the umbrella company for the services provided. The fee covers such things as administrative paperwork, the transfer of social security contributions and additional services, depending on the companies.

In the UK system, the client can either be an independent worker (consultant) or an agency worker, while the French system – known as *portage salarial* – allows only for independent workers to be co-workers of such companies (Arvas, 2011). Since 2010, the French legislation also restricts *portage salarial* to executive employees only (Interprofessional Agreement on the Activity of Umbrella Companies, 24 June 2010, renewed in 2013). Umbrella companies must be exclusively dedicated to this one activity and only accept assignments in the service sector. **They** operate under the French Register of Economic Activities (NAF) code 78.30Z (Other Provision of Human Resources).

This form of work first appeared in the 1980s (Del Sol et al, 2005) but was not common until more recently. Only in 2008 was the principle of *portage salarial* introduced into the French Labour Code under a single legal status. Article L.1251-64 of the Labour Code, created by Law No. 2008-596 of 25 June 2008, defines the *portage salarial* as:

a set of contractual relationships organised between an umbrella company, a co-contractor [personne portée] and client companies, providing the co-contractor with salaried regime status and the payment of his fees due to the provision of services for the client company.

The law also modified Article L.8241-1 of the Labour Code that outlawed ‘any profit activity linked exclusively with the lease of workers’ in order to exclude umbrella companies from the definition of an illegal lease of workers.

According to Del Sol et al (2005), there were 58 umbrella companies in France in 2005. At the beginning of 2014, according to the [Portage guide \[in French\]](#), 122 companies were registered as using this form of employment. In their 2005 report, the authors estimated the actual number of umbrella companies to be double their published figure. The figure provided by the *Portage guide* is only an unofficial estimate, as it is not compulsory to be listed.

It is thought the true figure for 2014 is between 200 and 250 companies. This means that the sector has undergone a tremendous growth in the last years.

General characteristics of AdPartners

AdPartners is a small company created in December 2008. It is a private limited liability company – known in France as a SARL (Société anonyme à responsabilité limitée) – entirely owned by its managing director and employing one person (a payroll administrator) since 2013. It is registered as a company which provides human resources. The one employee is a young trainee whom the company plans to hire full-time after she finishes her studies.

In 2008, the managing director left a big umbrella company based in Paris in order to build her own business in Lyon. The business started with 10 co-workers and the managing director started her activity from home. An office was opened in 2011 and AdPartners bought another umbrella company based in Dijon in 2013, becoming [AdPartners Heyman](#). The company has enjoyed a steady growth of revenues over the years and is very optimistic about its future. In 2014, the company was dealing, on average, with around 40 payrolls per month.

According to the managing director, only a few umbrella companies were based outside Paris in 2008 with the local markets being covered by regional bureaus of Parisian companies. Therefore, the main objective of AdPartners was establishing a locally-based company, embedded in the local business networks. Indeed, after the relevant provisions were introduced into the Labour Code in 2008, a new wave of smaller umbrella companies have appeared, many at local level. Having started with 10 co-workers, recruited mostly from the personal network of the managing director and her former employer, AdPartners worked with 110 co-workers in 2014. The data available indicate that about one third of them are active every month. The majority of them were doing business consulting activities. According to the 2013 status report supplied by AdPartners, the co-workers' working activities were:

- consultancy and audit (environment, security, training, logistics, business development, management, project management) – 45%;
- arts, culture, web-design, audio-visual media – 11.25%;
- training and teaching provisions in administration, advertisement, personal development, health and social work, foreign languages, legal advice – 10%;
- agriculture – 8%;
- leisure and cultural services – 6.25%;
- computer science – 6.25%;
- wellness and beauty treatment services – 1.25%;
- real estate – 1.25%;
- telemarketing – 3.75%;
- photography – 2.5%;
- journalism – 2.5%;
- interior design – 1.25%.

Because of the legislation regulating the scope of *portage salarial*, all the co-workers are officially executive workers, and those who were not have changed their status.

According to AdPartners' managing director, most of the co-workers are people who lost their jobs, either because of lay-offs or through a contractual termination. The average age of co-workers is 45 years and there are slightly more women than men. A study conducted in 2005 (Del Sol et al, 2005) found that the average age was 50, but that men were in large majority. However, there has been a growing feminisation of the sector, as confirmed by AdPartners' managing director. At national level, a majority of co-workers are men, but AdPartners' founder used her network of contacts, including the Association of Women Entrepreneurs, to change the gender balance of the co-workers in her company.

The majority of AdPartners' client companies are businesses, since most of the co-workers are business consultants.

Co-workers can work on short-time missions (less than a month) or long-term ones (several years). The law restricts the duration of the contract between the umbrella company and the client company to a maximum of three years, although it can be renewed. In cases where the co-worker was on a fixed-term contract with AdPartners, the contract can be turned into a permanent one. Fixed-term contracts cannot be accumulated but a fixed-term contract can be turned into a permanent one.

The umbrella company is usually the main and only job of co-workers (although they can work for several client companies at the same time), who are likely to be middle-aged business executives who have lost their position in a company or who work for themselves. Combining a freelance activity through an umbrella company with a stable job is possible, for example, for

people wishing to start a new activity without leaving their previous position, provided the amount of worked hours does not exceed the legal maximum (10 hours per day or 48 hours per week).

The umbrella companies work under the SYNTEC collective agreement (which applies to technical consultants, engineering consultants and other consultants) as the basis of the salary framework. In practice, the salary is negotiated with the client company and stipulated in the contract of provision of services. Both sides have plenty of flexibility in negotiating the specific salary levels, but the law has fixed a legal minimum (€2,900 gross salary for a full-time equivalent). The legal minimum as stipulated by the law is higher to the SYNTEC legal minimum (€ 1,700 for the lowest junior position), but takes into account the fact that most co-workers are senior medium or high-level executives.

The salaries are usually quite high but they may not be regular. In addition, co-workers may receive from the umbrella company an introductory fee (representing 5% of the amount of the task performed), accounting for the time they dedicate to searching clients.

Design and implementation process

Co-workers of umbrella companies work under two types of contracts. The first type is the work contract or *contrat de portage* that is signed between the umbrella company and the co-worker. The contract is subject to the common labour law. It can be either fixed-term or permanent. In the first case, the contract refers to one single mission of service provision. The number of hours worked (part-time or full-time), the amount of the salary paid, and the working conditions are negotiated between the co-worker and the client company, and then recorded on the work contract. A fixed-term work contract cannot be renewed. A permanent contract is signed if the co-worker plans to carry out more than one mission simultaneously or in a row. An annex to the contract must be added for every job, specifying the conditions of the services. The contracts are totally flexible – there are no minimum hours and no guaranteed salary if the co-worker does not have an assignment.

The second type of contract is signed between the umbrella company and the client company. The contract specifies the nature of the service, the number of consulting hours (if applicable) and the price as well as other relevant information. The price is negotiated directly by the co-worker.

For the company actually using the work provided by the co-worker, the situation is fairly different from that of hiring a temporary agency worker or an independent consultant. The main difference is a legal one: the contract signed by the client company is not a work contract per se, but a commercial one. There is no dependency link between the company and the co-worker, and no impact on the payroll costs.

In the case of conflict, the dispute would be a commercial one and not a labour one.

Unlike a temporary worker, the co-worker does not have links of subordination with the client company. The co-worker must honour the contract and the conditions of work that are detailed therein, but does not have to comply with additional conditions not specified in the contract. Unlike a temporary worker, the co-workers do negotiate the content of the contract by themselves instead of through the umbrella company, and the contract has to refer to the co-worker personally.

AdPartners uses its business network to find potential co-workers and potential clients. Networking is indeed the core activity of AdPartners' managing director. For that reason the company is a member of various local business organisations, such as Lyon and Caluire-Sathonay-Rillieux business networks and the Association of Women Entrepreneurs. The managing director attends congresses, conferences, fairs, and other business events in the area.

Sometimes co-workers may be sent by the firm willing to hire them through an umbrella company. For example, this was the case of one of the co-workers interviewed for the study. A potential employer did not want to hire him directly because of insufficient funds and asked him to find an umbrella company. The co-worker then did some desktop research and compared various umbrella companies before making the decision. He opted for AdPartners on the basis of transparency, since the services and prices appeared quite clear to him compared with other companies.

Many of the co-workers were unemployed before and therefore employment agencies – including the national public employment service, [Pôle Emploi](#), are important partners of umbrella companies. Pôle Emploi organises employment fairs where umbrella companies can participate and offer their services to potential co-workers. Another important employment agency is the Association for the Employment of Executives ([APEC](#)) which focuses on highly skilled workers. APEC advertises work with umbrella companies and is a particularly important partner since it targets unemployed executives or executives planning to change jobs.

Working method, processes and procedures

Both co-workers interviewed for this study worked on permanent contracts. The first, a web-designer, did not have any specific job, or mission, at the time of the interview. He was looking for new clients and doing some self-training. The second interviewee, a business developer, was working on two missions while also looking for a third company in order to start working full-time.

The location of a specific assignment depends on the client company. The web designer has worked at the offices of the client company, working full-time like a regular employee. He also worked from home.

The business developer has spent a day per week in one client company's offices and three days per month in another. About two days of the week are dedicated to business activities away from the company offices at events including business fairs and meetings, and business travel, with the remainder dedicated to market research (finding new clients).

When co-workers find an employment opportunity, they are responsible for negotiating with the client company the specific terms and conditions (including the fees). Employment opportunities are found mainly through networking, and it can either come from the client company or from the co-worker. Client companies can ask umbrella companies about their portfolio of workers, but umbrella companies are not allowed to prospect potential client companies for their workers. Most of the co-workers have a good knowledge of their own market and its work prospects.

Since the relationship between the client company and the co-worker is of a commercial nature, co-workers are not entitled to any benefits provided by the client company, nor represented. They remain dependent employees of the umbrella company exclusively. Being employed by the umbrella company, they can benefit from the Individual Training Right scheme, which allows any employee in France to benefit from training provided for a certain number of worked hours. At the end of their contract (if fixed-term), they are also entitled to severance pays as stipulated in the law (10% of the mission fee, included in the final price).

In accordance with the law, the co-worker has to be the person who negotiates *and* performs the job. This is the reason why, unlike in the British system, umbrella companies do not function like temporary work agencies. There is no income support mechanism, meaning that if a person does not work then there is no payment.

When there is a conflict between a co-worker and a client company, AdPartners acts as a mediator. AdPartners' managing director reported having only had one such experience, where mediation was successful and the contract was eventually completed. In the case of an irreconcilable conflict, the contract can be ended by any party in accordance with the conditions

stipulated in the contract. Upon termination of the commercial contract the fixed-term work contract between AdPartners and the co-worker would terminate automatically, and could also be a motive for ending a permanent contract, under certain specific circumstances – for instance, dismissal for gross misconduct.

The work contract (*contrat de portage*) states the terms and conditions (including the costs) of the relationship between the umbrella company and co-worker. Usually umbrella companies offer the services including billing the client, paying the salary to the co-worker, paying the employer and employee standard dependent employee social security contributions, managing the administrative paperwork, declaring income to fiscal authorities, taking care of the professional liability insurance, and mediating conflicts (if, for example, a client does fulfil its obligations).

Generally speaking, the fixed costs – such as social contributions and insurance – are passed on in the price negotiated with the client company. In addition, AdPartners provides advice on negotiating mission costs with the client, and provides expertise on the reliability of client companies. AdPartners has some facilities available for the co-contractors, such as meeting rooms and computer workstations. One of the interviewees mentioned using the room regularly (once a week) in order to avoid working from home all the time. Furthermore, AdPartners provides information and networking opportunities aimed to facilitate the task of finding the clients.

External support

AdPartners has not received any external support. It admits to having trouble coping with some administrative inconsistencies, most notably with the national unemployment agency, and would appreciate some support from the national authority.

Outcomes

For co-workers, the main advantage of this form of employment is access to the rights and benefits granted by the social security system for salaried workers, such as sickness pay, maternity leave, unemployment benefit and pension. The high level of social protection provided by this regime is one of the main reasons why people choose umbrella companies, together with the advantage of letting the umbrella companies deal with the paperwork (Mouriaux, 2005; Del Sol et al, 2005). (Independent workers and self-employed workers belong to the much less favourable social security system for independent workers.) This motivation was confirmed by the two co-workers interviewed.

In the case of employee-sharing, skills and employability can be enhanced when the labour market is favourable. For example, web designing is a flourishing sector and the co-worker engaged in this activity was developing new skills through the missions he was picking and was dedicating time to his own self-improvement between jobs. In the case of the marketing manager, the co-worker previously had a high-level corporate position in a large multinational firm, and he chose to work with SMEs in order to diversify his experience. However, some other marketing managers may not share his views and in this case they would probably be over-skilled for the job.

Those two specific factors are the main asset of the model, since umbrella companies provide the same outcomes as freelance work: flexibility and better work–life balance, but also more insecurity and fluctuating wages.

The web designer interviewed said he had sufficient income. The marketing manager was looking for a third job to reach a full-time equivalent, meaning he was probably intending to raise his income.

It is however likely that not all co-workers have enough contracts to have a permanent income corresponding with their skills and qualifications. However, some co-workers might also opt for

umbrella companies to be able to choose the amount of hours they want to work and enhance their work–life balance, for example.

Being high-level executives, co-workers often work on an autonomous basis, but they may also have to manage the client company's permanent staff. One of the co-workers interviewed was in this position and said he had no relationship problems with the employees of the company, but admitted to having worked carefully on his integration among the staff.

At the level of the labour market, umbrella companies help to find employment for older workers who may have valuable skills and expertise but are not very attractive to companies as full-time employees. Furthermore, SMEs frequently do not have sufficient resources to hire a full-time expert or a high-level executive. It appears then that umbrella companies are particularly useful for people with lower employability on the 'classical' labour market and for companies with limited financial and human resources.

Many SMEs do not have a human resources manager, and the umbrella companies provide human resources in the form of a commercial contract, which is for many of them more simple and easy than editing work contracts. Umbrella companies can provide an intermediate stage for people planning to create their own business, especially given that co-workers basically develop their own client portfolio. Working with an umbrella company is then a convenient way of testing the market. In the case of AdPartners, two people have left the pool in order to open their own businesses. Furthermore, the client companies sometimes decide to hire the co-workers on a permanent basis. Since 2008, at least 10 people have left AdPartners for a direct contract with the client company.

For AdPartners, the company sees growth potential in the market for umbrella companies although there still are too many restrictions. For the client company interviewed, using an umbrella company helped with hiring telecommunication workers 'on demand' which decreased costs as well as the administrative burden. In effect, the client company used AdPartners co-workers instead of subcontractors.

Strengths and weaknesses

The key strength of the umbrella companies system is that it basically extends the social security system for salaried workers to people who would otherwise have to work under the much less beneficial independent workers' system. The system helps find employment for people (for example, experienced senior workers) who otherwise would probably be unemployed. For the client companies, it provides an alternative to subcontracting and an opportunity to deal directly with workers who supply the services. The cost might overall be quite similar to hiring through temporary work agencies or subcontracting, but the relationship with the worker is more direct and the terms of the assignment can be negotiated directly with them.

The system, however, does have significant weaknesses. First and foremost, the social security side is incomplete. There are no income support procedures and there are no guarantees for a stable (minimal) salary. In addition, although the national institution managing unemployment benefits (UNEDIC) formally recognised the rights of workers of umbrella companies in 2011 (Circular of 7 November 2011), interviewees report having trouble with Pôle Emploi when claiming benefits. More generally, it is sometimes difficult to enforce the social rights under the umbrella employment system (especially for discontinuous one-off activities). If the legislative framework remains the same, the umbrella company system may increase the dualism of the French labour market by deepening the segregation between the 'insiders' and 'outsiders' with limited social rights (Gautié, 2003).

The managing director of AdPartners suggested that umbrella companies should be granted a specific legal status, similar to the one that temporary work agencies obtained in 1975. In the absence of such framework, umbrella companies have to draft their contracts with co-workers

under the common law, meaning either a fixed-term or a permanent contract. However, the contracts of umbrella companies are usually much more flexible and do not contain many terms that are usually present on the standard common law contracts (such as standard working hours).

Future plans

The interviewed representatives from AdPartner and client company Agitech were optimistic about the future of the pool and were planning further growth, provided there will be no unfavourable changes of the legal framework.

Commentary

Paradoxically, the umbrella company system demonstrates the attractiveness of the salaried status while also contributing to its weakening (Mouriaux, 2005). Umbrella companies stand somewhere between a billing agency for independent workers and a work agency for executives, and sometimes the two objectives are difficult to reconcile.

The model suffers from both under- and overregulation. On the one hand, the law specifies the activities of umbrella companies and prevents them from becoming work agencies. On the other hand, the law says very little about the working conditions of the co-workers. There is no regulation of fees of umbrella companies, which means the sector lacks transparency.

Some legislative measures are still needed in order to further improve this form of employment.

Information sources

Websites

PEPS (Professionnels de l'Emploi en Portage Salarial): www.peps-syndicat.fr

UNEPS (Union Nationale des Entreprises de Portage Spécialisées): www.uneps.org

FEPS (Fédération Européenne du Portage Salarial): www.syndicat-portage-salarial.fr

FENPS (Fédération Nationale du Portage Salarial): www.fenps.fr/

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