

# CLIENT ALERT

## Post Brexit - Which Laws Cover International Employment?

March 3, 2020

### No Immediate Cause for Concern, but Major Questions for 2021

Brexit is a fact and the transition period is now running.

The question of **applicable labor law** arises in the context of temporary and permanent employment as regards both those employed in Belgium by a U.K. employer and those employed in the U.K. by a Belgian employer. In such situations, there may be a conflict between the labor law applicable in the country where the employer is established and that applicable in the country where the employee performs their services.

On its website, the Belgian Ministry of Employment informs employers and employees about the rules applicable during the transition period (February 1, 2020 – December 31, 2020) and after this period (as of January 1, 2021). Here is a summary of these rules relating to both the posting of workers and to permanent employment:

	<b>Temporary posting of workers</b>	<b>Permanent employment</b>
	<i>Ex. U.K. employer posts employee to Belgium; Belgian employer posts employee to the U.K.</i>	<i>Ex. U.K. employer with employees in Belgium; Belgian employer with employees in the U.K.</i>
<b>2020 (transition period)</b>	<b>EU law</b> continues to apply – no changes	<b>EU law</b> continues to apply – no changes (cf. Rome I Regulation)
<b>As of 2021</b>	1. Posting from Belgium to the U.K. => the Posting of Workers Directive 96/71/EC explicitly provides that companies established in a country which is not an EU Member State may not benefit from more favourable treatment than companies established in an EU Member State. For the time being, the <b>Belgian Posting of Workers Act</b> of 5 March 2002 will continue to apply after the transition period.	1. Permanent employment in Belgium (and EU generally) => Withdrawal Agreement does not provide any rules. However, the <b>Rome I Regulation</b> remains applicable for the territory of the EU, even if the parties to the employment contract have opted for the law of a third country.

	<p>2. Posting from the U.K. to Belgium =&gt;</p> <p><b>Uncertainty</b> – Rules will depend on the arrangements to be made between the EU and the U.K.</p>	<p>2. Permanent employment in the U.K. =&gt;</p> <p><b>Rome I Regulation</b> will continue to apply to <i>employment contracts entered into before the end of the transition period</i> (cf. Withdrawal Agreement).</p> <p><b>Rome I Regulation</b> will not apply in the U.K. to <i>employment contracts entered into as of 2021</i>. Hence, parties will need to determine which terms and conditions of employment will apply in the U.K. under <b>U.K. law</b>.</p>
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Our Brussels Labor & Employment practice is available to advise and assist companies regarding all aspects of international employment in Belgium and in the EU, including the filing of single permit applications with the competent authorities on behalf of companies.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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