

# CLIENT ALERT

## The New Belgian Labor Deal

February 18, 2022

More people at work, and a focus on flexibility and a better work-life balance for employees. These are the main objectives of the new Belgian “Labor Deal” announced by the Belgian government on February 15, 2022. Among the most significant measures contained in the agreement are the following:

- Four-day working week. This is the most striking measure in the Deal. It will allow full-time employees the option to work four long days (maximum 9.5 or 10 hours per day) instead of five, and take one day off a week. Although an employer will be able to refuse such a request, such a refusal would have to be justified. This measure is accompanied by many new formalities and an increased administrative burden for employers. The Work Rules will need to be modified. Also, an agreement with the employee will have to be signed, and a copy of this agreement will have to be presented to the Prevention Committee or Trade Union Delegation. This agreement will run for six months, but be renewable.
- A comparable measure, mainly aimed at employees in co-parenthood: the option for employees to work more hours in week 1 and less hours in week 2. The same formalities will need to be complied with.
- Part-time employees with variable work schedules will need to be informed about their work schedule at least seven working days in advance (the minimum is currently five days).
- Right to be offline, or a right for employees (in companies with more than 20 employees) to de-connect after working hours. Such right to be offline already exists in the public sector, and some companies in the private sector already have such internal policy. The right to be offline is now to be fixed by law (general framework), but a collective bargaining agreement (at national, sectoral or company level) will be needed as well.
- The principles regarding employee training are further elaborated. The collective approach will become an individual right. In short, employees will be entitled to three days of training in 2022 (per FTE), four in 2023 and five as of 2024. This does not apply to employers with fewer than 10 employees. For employers with 10 to 20 employees, the training obligation is limited to one day per year, on average, per FTE.
- Also, employers with more than 20 employees will have to draft a training plan, including the list of training sessions and the target audience) and submit this plan to the social consultation bodies in the company or, by default, to the employees.
- Following dismissal, employees will be allowed to start working for a new employer during their notice period (“transition path”). If the employee makes use of this right, organized by interim agencies or regional employment services, the employer will have to continue to pay the appropriate salary, but will be able to obtain full or partial reimbursement from the new employer (an arrangement will have to be made between both companies). At the end of the transition path, the new employer will be required to hire the employee for an indefinite duration (otherwise an indemnity will have to be paid to the employee).
- In addition to the right to outplacement (four weeks deducted from the notice period) employees with a notice period of 30 weeks or more will be entitled to specific activating measures such as training and coaching. This measure will be

paid for by the employers' contributions on the notice period/indemnity in lieu of notice. Concretely, it will be possible to convert one third of the total notice period into training and coaching.

- The Ministry of Employment will be expected to monitor the diversity in the workplace for each sector. If there are significant differences between the sector in general and a specific company, this company will need to draft an action plan to correct the issue.

In addition to the above, the Labor Deal also includes new measures for platform workers and for workers in e-commerce.

- A list of eight criteria has been agreed on to help determine the employed or self-employed status of platform workers, if three out of the principle criteria are met, or if five of these eight specific criteria are met, an employment relationship is presumed. The criteria include, for example, a request of exclusivity to work for one platform, the use of geolocation for purposes other than the proper functioning of the main service, the existence of restrictions on the worker's freedom to accept or decline orders, and the possibility to work for a client base outside of the platform. The presumption of employment status will be refutable.
- In e-commerce, it will be possible to introduce night work (in Belgium this means as of 8pm) via a collective bargaining agreement (only one trade union needs to approve), in addition to the current option of introducing night work via the Work Rules.

It will also be possible to allow employees to perform night work (between 8pm and 12 midnight) on a voluntary basis, without the permission of the trade unions, for a 'trial period' of maximum 18 months.

What's next? The social partners (representatives of employers and employees) will now study the measures and advise. The measures will then be transposed into legislation in the coming months.

The Crowell & Moring Labor & Employment team is closely monitoring this topic and will make sure you are kept up to date. If you have any questions or concerns, or should you wish to be proactive in preparing for one the new measures (e.g., to address requests from Unions or employees, or to consider the impact of the new rules regarding a four-day working week or the right to be offline, etc.), please do not hesitate to reach out.

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

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