

European (& the GCC) Employment Law Update

Jurisdiction: Belgium

Date: May 2019

Impact date	Development	Impact
1 January 2022	Dismissal package	<p>A bill concerning the so-called dismissal package was submitted in the Belgian House of Representatives.</p> <p>Employees who are dismissed with a notice period or indemnity in lieu of a notice period of at least 30 weeks are entitled to a dismissal package as from 2022.</p> <p>These employees will be able to spend part of their indemnity in lieu of notice (maximum 1/3) on training. This will enable them to increase their employability in the labour market.</p> <p>The part of the indemnity that the employee uses as a training budget will be subject to a favourable social and fiscal regime. If certain conditions are met, the training budget will be exempt from normal social security contributions and taxes. The employer only owes a special social security solidarity contribution.</p>
1 January 2019 up to and including 31 December 2020	Increase in the number of overtime hours with a tax benefit	<p>The Belgian House of Representatives has introduced a bill that increases the maximum number of overtime hours which benefit from a favourable tax regime.</p> <p>Overtime work is work that exceeds the normal working time schedule and that exceeds either the daily working limit of nine hours or the normal weekly working limit of 40 hours. Overtime is only allowed in situations specified by the law.</p> <p>Under certain conditions, a favourable tax regime applies to a number of overtime hours per year and per employee for both the employee and the employer. This number will now increase from 130 hours up to 180 hours.</p> <p>This general increase only applies to the remunerations granted in 2019 and 2020. For the remunerations granted as from 1 January 2021, the number of hours will be reduced again to 130 hours until further notice.</p>

		<p>The impact of the measure on the labour market will be re-evaluated in 2020. In case of a positive evaluation, the measure may be continued or be converted into a permanent measure via a Royal Decree.</p>
23 April 2019	Increase in the number of voluntary overtime hours	<p>A collective labour agreement was concluded in the National Council for Employment concerning the allowed number of voluntary overtime hours.</p> <p>The number of voluntary overtime hours per calendar year is increased from a maximum of 100 hours to a maximum of 120 hours.</p> <p>Employees can perform up to 120 voluntary overtime hours. These comprise overtime hours at the request of the employer, which must be signed by the employee for approval. These voluntary overtime hours will then be paid by the employer (a supplementary compensation amounting to 50% of the employee's normal salary and 100% of the employee's normal salary for overtime work on Sundays or public holidays) and the employer will have to grant compensatory time off.</p>
29 April 2019	Outplacement in case of medical <i>force majeure</i>	<p>Outplacement is an official counselling program to assist dismissed employees in their search for a new job. As from 29 April 2019, this system becomes available for employees whose contract has been terminated due to medical force majeure.</p> <p>Before, offering outplacement to employees was only mandatory for</p> <ul style="list-style-type: none"> (i) employees dismissed with a notice period of at least 30 weeks, or (ii) dismissed employees aged 45 years or older. <p>From now on, the employer is obliged to offer outplacement in the event of medical force majeure, equal to a cost of approximately 1,800 EUR. Within 15 days after the employment agreement is terminated by invoking medical force majeure, a concrete and appropriate outplacement offer must be formulated. The employee who is entitled to follow the program then has 4 weeks to accept the specific offer in question.</p>

29 April 2019	Changes to the training clause	<p>In October 2018, a bill on training clauses was passed by the Belgian House of Representatives. Training clauses typically stipulate that the employee who, during the execution of his employment contract, completes training or education financed by the employer, undertakes to reimburse the latter part of the training costs if he or she leaves the company before the end of an agreed period.</p> <p>The purpose of the new rules is to encourage employers to invest in the training of their employees. This bill eliminates the legal requirement of a minimum gross annual wage. In addition, a specific "training clause plus" is introduced for professions which experience significant labour shortage.</p> <p>1. Flexible conditions for the training clause</p> <p>Before, training clauses were only possible in case of a gross annual wage of 34,180 EUR gross. As a result, it was practically impossible to include a training clause in contracts for workers, young people and employees with a low gross wage.</p> <p>As a result, employers were facing a risk that these employees would leave the company and that the company's investment would be lost. For that reason, the minimum gross annual wage will be lifted as statutory condition for the training clause.</p> <p>On top of that, training clauses were only possible if the training consisted of at least 80 hours or comprised a value higher than double the average minimum monthly gross income. With the new bill, training clauses will be possible if the training offers real added value for job retention of the person, for his or her possibilities for growth and for the labour market in general.</p> <p>2. Specific "training clause plus"</p> <p>The bill also introduces a specific "training clause plus" for professions facing a significant labour shortage. It provides the possibility for applying the training clause even when training is required by law or regulation to practice a profession.</p>
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As from 2019	Changes to the age conditions of pre-pension	<p>“Pre-pension”, which has been renamed “unemployment with bonus paid by the employer,” is a regime accessible to older employees in the event that they are dismissed. More particularly, the older employee is entitled to: (i) unemployment allowances that are paid by the Belgian state (unemployment office); and (ii) an indemnity that is paid by the employer on a monthly basis.</p> <p>Belgian social partners have now set a new timetable for the age conditions of the regime.</p> <p>1. General system</p> <p>The age required in the general system is 62 years, but there is currently a difference between men and women concerning the years of career. Men must have 40 years in their career. In 2019 women must have 35 years in their career. Each year, the age re for women will increase by 1 year until the career requirement of women is equal to the career requirement of men. This will probably be the case in 2024.</p>

		<p>2. Long career (40 years) From 2019 up to and including 30 June 2021 the minimum age is 59 years. From 1 July 2021 the minimum age will be 60 years.</p> <p>3. Heavy occupation For a heavy occupation with a career of 35 years, the age is 59 years from 2019 up to and including 30 June 2021. From 1 July 2021 it will be 60 years.</p> <p>4. Medical reasons Employees with a career of 35 years and aged 58 can early retire for medical reasons for the period 2019-2020.</p> <p>5. Night work/ construction sector/ heavy occupation Employees who have done either 20 years of night work, or 5 or 7 years of hard work (such as shift work, night work or interrupted services) during the last 10-15 years prior to the end of the employment contract, or a construction worker with a certificate of disability, may early retire at the age of 59. This age condition applies up to and including 30 June 2021. From 1 July 2021 the age will be raised to 60. The career condition is 33 years.</p> <p>6. Company undergoing difficulties/restructuring When an employee works in a company undergoing difficulties / restructuring, the age of early retirement is 58. This age condition applies up to and including 30 December 2019. Up to and including 30 December 2020, it will be 59. From 31 December 2021 the age will be 60. In all these cases, the career condition remains 10/20 years.</p>
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