



Laga Newsflash

Social elections 2020: Did you start counting numbers?

On 13 March 2019, the Committee on Social Affairs approved the draft bill on social elections.

The draft, which will hopefully be adopted and published in the near future, provides some important changes for companies' practices.

Reference periods for employment threshold calculation brought forward

The draft bill confirms the National Works Council's proposal (Advice No. 2.103 of 23 October 2018) to bring forward the reference period for the calculation of the required minimum employment threshold by one quarter. As such, the new rule avoids that a company still needs to determine, by December, whether it meets the threshold or not, while the procedure has or should have begun.

The reference period will run from 1 October 2018 until and including 30 September 2019, implying that a first reasonable assessment can be made given that the period is already at its halfway point.

Furthermore, the specific reference period for calculating the relevant number of temporary agency workers is also brought forward. This period should run from 1 April 2019 until and including 30 June 2019. Assuming that the draft bill will be endorsed by the chamber of representatives, the crucial period

for this part of the average employment calculation would therefore start during **the week of 1 April 2019**.

Specific register from 1 April 2019

During the reference period for temporary agency workers, companies are obliged to maintain an annex to the general personnel register, in which active temporary agency workers are registered. This annex should therefore be available by 1 April 2019 at the latest.

Companies with more than 100 employees are exempt from the abovementioned obligation if the works council includes a unanimous vote in the recorded minutes of the meeting that should have taken place at 31 March 2019 at the latest. This date will have to be postponed however, as currently, the legislation providing for this obligation is not approved yet.

Temporary agency workers are entitled to vote

Temporary agency workers who meet the following cumulative conditions will, going forward, also be entitled to actually participate in elections organised by the company temporarily employing them:

- 1) Employed for at least three consecutive months, or for at least 65 working days with discontinued periods of work within the legal entity or the technical business unit. This during a reference period that starts on 1 August 2019 until the posting date ("X"); and
- 2) Employed for at least 26 working days in the legal entity or the technical business unit, during a reference period that starts on "X" and ends on the 13th day preceding the elections.

In multiple aspects, temporary agency workers who meet these conditions have the same entitlements as "employees" (e.g. object to electoral rolls or the list of managerial staff), implying that they will be able to have a direct impact on the organisation and outcome of elections. Depending on the number of temporary agency workers in a company, the additional administrative or practical burden cannot be underestimated.

FAQ social elections 2020?

Laga's Employment, Pensions and Benefits team can assist companies with all phases of the upcoming social elections and will organise breakfast seminars on this topic in the very near future.

In the meantime, the below contacts are readily available to answer any questions or provide further information on this topic.

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