

Strelia Employment Newsflash - Social Elections Series

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Bill amending certain aspects of the electoral procedure for the 2024 social elections has been approved

Next year, in 2024, customary social elections in Belgium, which take place every four years, to elect employee representatives to the Works Council and/or the Committee for Prevention and Protection at Work will take place. To keep companies informed of the main milestones in the social election procedure, Strelia's Employment & Benefits Practice will share its insight into this subject-matter with you through its *Social Elections Series*.

To kick off this *Series*, we will discuss the bill that was passed by Parliament last week (26 May 2023). This bill makes several formal and minor changes to the election procedure.

Here are the main substantive changes:

1. Voters can be convened by e-mail

The Act of 4 December 2007 on social elections lays down strict rules for convening all eligible voters. The rule that applies today is that, in principle, employers must convene these voters 10 days before the social elections date by means of a convocation notice delivered to them by hand. Only employees who are not present in the company on the day of this hand-delivery can be convened using other means (e.g., by registered letter).

The approved bill will allow employers to simplify this convocation process. Employers can immediately convene voting employees by e-mail if, at least, these three conditions are met:

- The employee must have a work e-mail address that they use for work (i.e., an email address that the employer has assigned to them);
- The employee must have access to digital technology equipment (e.g., computer or laptop), which the employer provides to them at their usual workstation; and
- The Works Council or the Committee for Prevention and Protection at Work must have agreed unanimously (or, in absence of these bodies, the employer and the trade union delegation must have agreed unanimously) to issue the convocation notice by e-mail. This consensus must be reached no later than the date when the election date ("Day X") was displayed by public notice on the premises.

If employers choose to send the convocation notice by e-mail, they must be able to produce proof of both the sending and the employee's receipt of it.

2. Temporary agency workers may vote

Temporary agency workers who have been hired out to perform work at the user company that must organise social elections will also be able to vote in the elections under certain conditions. Before the new rules come into force, these temporary agency workers may vote if they fulfil a length-of-service condition, which is calculated over a complex double-reference period.

The approved bill will significantly simplify the conditions that enable temporary agency workers to vote. Temporary agency workers will then be eligible to vote if, during the three calendar months preceding the month in which the election date is displayed (specifically, the month of February 2024), they effectively performed 32 working days at the user company that is organizing the social elections.

Regarding voter lists, since drawing up the lists of voters requires certain personal data concerning the temporary agency workers and the user company does not necessarily possess these data, the approved bill also provides for a legal basis for the user company to request the personal data from the temporary work agency.

The approved bill has yet to be published in the Official Gazette and will become effective from the date it is published.

Our Employment & Benefits Practice is monitoring the developments on this topic closely. We will make sure you are up-to-date about it. If you have questions on what your company can already do now in view of the social elections in 2024, our team is standing by to assist you.



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