



**Global Employment  
Compass  
Belgium**

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# 1. Summary of applicable rights for different categories of workers

	Employees (part-time or full-time)	Independent contractors/ service providers	Volunteers
<b>Employment laws and regulations</b>	Applicable	Non applicable	Certain provisions of employment law apply to volunteers notwithstanding that they are not employees.
<b>Employees' compensation/ remuneration requirements</b>	Applicable	Non applicable	Non applicable
<b>Minimum wage requirements</b>	Applicable	Non applicable	Non applicable
<b>Mandatory provident fund/retirement benefit fund contributions</b>	Applicable	Non applicable - A self-employed person takes care of his own affiliation with a social insurance fund for the self-employed of his choice and pays quarterly contributions (mandatory).	Non applicable
<b>Immigration requirements including the right to work in your country</b>	Applicable	Applicable	Applicable - To volunteer in Belgium (for a non EU national) , a volunteer permit is required.
<b>Personal Data (Privacy) laws and regulations</b>	Applicable	Applicable	Applicable
<b>Anti-discrimination laws and regulations</b>	Applicable	Applicable	Applicable



## 2. Legal requirements/rights/ practices for different categories of workers

### a. Employees

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#### *Definition of an employee*

An employee is a worker who, under an oral or written employment contract, performs work under the authority of an employer, in return for remuneration.

### 1 Contracts of Employment

**What types of employment contracts are available? E.g. fixed term, part time, zero hour contracts, other? Are there any specific employment contracts available for non-profit organizations?**

Fixed-term and part-time contracts are available, however zero hour contracts are not permitted. Additionally, a range of atypical contracts exist. These include employment contracts for agency/interim work, employment contracts for temporary labor and replacement employment contracts.

**What are the key terms of employment contracts?**

In the absence of express written terms, there is a legal presumption that the contract is a full-time, open-ended employment contract. For senior executives, the inclusion of a non-compete clause, confidentiality and non-solicitation clauses are often recommended.

**Is it acceptable to have a probation period for employees? If yes, for how long?**

No, probationary periods cannot be included in employment contracts, with the exception of employment contracts for students and temporary workers whereby the first three working days are automatically considered as a probationary period.

However, given that notice periods are limited at the beginning of employment and that no reason for termination is required during the first six months of employment, the first six months of employment have a similar effect as a probationary period.





**Are fixed term employment contracts permissible? Are there any limitations on fixed term contracts? Are there any requirements to have a fixed term contract?**

Fixed-term contracts are permissible. A fixed term contract is a contract that provides for its automatic termination on:

- a specific date (e.g., 31 December 2023);
- the expiry of a specific term (e.g., 12 months);
- the occurrence of an event occurring on a known date (e.g., the sale of a subsidiary, or the completion of a project that will take place on a specific date).

There is no maximum duration, except that the number and total duration are limited on successive fixed term contracts: maximum 4 contracts, each contract having a minimum duration of 3 months, total duration may not exceed 2 years (exceptions possible upon approval by the social inspection – maximum 3 years and minimum duration of the contract 6 months).

A fixed-term contract needs to:

- be in writing;
- be concluded individually;
- be drafted, at the latest, at the time the agreement takes effect;
- have clear contents;
- specify the end date;
- be drafted in the correct local language (Dutch, French or German depending on the place of employment).

Employers are forbidden from treating fixed-term employees less favorably than their permanent counterparts (provided that such employees are in a comparable situation) solely on the basis that such employees are working on a fixed-term employment contract. This essentially means that fixed-term employees are, in principle, entitled to the same pay and benefits as their permanent counterparts. A difference in treatment can however be justified by objective reasons.

Belgian law does not provide for any specific remedies where an employer is found to have discriminated against a fixed-term employee. Such employee will only be able to take advantage of remedies that are generally available under Belgian law. These include bringing a claim for damages (under which the claimant will bear the full burden of proof) and/or an injunction.

Fixed-term employees have the right to be informed by their employer of any available permanent vacancies. In practical terms, this means that the employer is required to advertise such vacancies to its entire staff, e.g., by displaying such vacancies on a message board, on the company's intranet, etc.

Employees with at least 6 months' employment have a specific right to ask their employer for a form of employment with more predictable and secure working conditions (such as a permanent contract). The employee is eligible to obtain such a form of employment if it is available, the employee meets the qualifications and skills required and accepts the proposed working hours and pay conditions. If the employer refuses, its refusal must be justified. The employer may not take any unfavorable measures against an employee because of their request (the sanction is 2 to 3





months' salary). The employer also cannot terminate the employment of the employee because of their request (the sanction is 4 to 6 months' salary).

**Do employment contracts have to be in writing? Are there any signatory requirements for employment contracts? For example, could they be signed in-person or electronically, etc.)?**

Under Belgian law, an employment contract does not need to be in writing, with the exception of the following:

- part-time contracts;
- teleworker (remote worker) contracts;
- homemaker contracts:
- contracts for agency workers;
- replacement contracts (interim);
- fixed-term contracts;
- contracts for specific, defined projects; and
- student contracts.

However, in order to be valid, non-competition clauses have to be in writing.

Contracts of employment must be drafted in the correct social language, namely French, German or Dutch depending on the region where the employer is based. If this is not the case, the contract may be declared null and void. In the Brussels region, the employment contract must be drafted in the language of the employee (French or Dutch).

**Do employees have to be issued with a written employment contract before they start work?**

Yes, in cases where a written agreement between an employer and employee is required (see question [above](#)).

**Can you provide a simple template of the contracts mentioned above?**

N/A.

**Is there an obligation for an employer to run a criminal record check to the extent that any individual they hire will be working with children or vulnerable people?**

The employer does not itself run a criminal record check, but in some cases, the employer should request an extract of the criminal record from the candidate. For instance, on February 1, 2023, the Flemish government introduced the obligation within various sectors to request and verify an extract from the criminal register "Model Article 596.2 minors model" from new employees who work with children or adolescents.

**Can employers request references from former employers for new hires?**

In theory, yes, but the employer must consider the privacy regulations. Personal data should in principle be obtained directly from the candidate. However, if the employer wishes to obtain information from third parties, as a data controller, it will need to obtain the candidates' consent to:





- collect their data,
- process the data for recruitment purposes (authorization for processors acting on behalf of the employer).

In addition, the employer must also always inform the candidates when it requests information about them from third parties (i.e., even if the candidate has given their consent).

According to the Belgian Data Protection Authority asking or giving information verbally on the phone is not covered by privacy rules. However, if the employer keeps the information obtained in the personnel file or includes it in an e-mail to a third person, it is considered a "data controller" and must be able to demonstrate on what grounds it is doing this, e.g., based on a legitimate interest.

**Is an employer required to set up any form of employee representative body? If so, what is the trigger for this?**

For companies with more than 50 employees, a Committee for Prevention and Protection at Work (CPPW) (safety committee) has to be set up. Elections for the CPPW are held every 4 years. The next social elections will take place in 2024. The CPPW mainly provides advice with regards to health and safety matters at work. The CPPW also approves the appointment and dismissal of the Prevention Advisor.

For companies with more than 100 employees, a works council (WC) has to be set up in addition to the CPPW. The WC has information and consultation rights with regards to: the business prospects of the company and the continuation of employment, annual performance of the company, mass dismissals and decisions that have a serious impact on the company. In the following circumstances, WCs have more influence:

- approval of work regulations (company handbook);
- determination of collective employee holidays; and
- management of the social workings of the company.

The conditions for the creation of a union delegation are usually determined by the joint committee at the industry or sector level. Usually, a minimum number of employees are required within the company as well as a certain degree of unionization.

**Is it common to have collective agreements in your jurisdiction that apply to all employers in a particular region or sector?**

Yes. Collective bargaining agreements (CLAs) are common. CLAs are concluded with employee representatives and /or external union secretaries at the following levels:

- national level – binding on all companies;
- industry or sector level – binding on companies of industry sector if rendered obligatory by Royal Decree; and
- company level – applicable within the company.





## 2 Conditions of employment

### **What is the minimum age requirement for employment?**

The minimum age for employment is 15 years. Those aged between 15 and 18 may work part-time while participating in study programs, and work full-time during school vacations. Only from the age of 18 can a young person be contracted full-time.

### **What type of work may a child undertake? For example, are there any specific restrictions?**

Yes, there are restrictions. Certain activities are prohibited for young employees (between 15 and 18 years). In particular:

- underground work in mines, quarries and excavations;
- labor that exceeds their strength, threatens their health or endangers their morality.

All other prohibited or dangerous activities that may not be performed by young employees are specified in Royal Decrees (e.g., demolition of buildings, operating excavating equipment and machinery).

### **Wages**

#### **What is the minimum wage requirement for employees? Are there any exceptions in minimum wages for young persons or people with disabilities?**

In Belgium, the minimum salary is not determined by law. The applicable minimum salary is traditionally set by CLAs concluded in joint committees (PCs). Tables of wages are enacted at the level of each sector of industry.

If the company belongs to a sector of activity for which the joint committee has not set any minimum wage amount, the average minimum monthly income determined at interprofessional level (i.e. applicable to the entire private sector) applies. The current minimum salary in Belgium (valid from 1 December 2022) is EUR 1,954.99 per month in 2023.

#### **Are there any conditions which warrant a pay raise or extra pay? If yes, what are they?**

Yes, a 50% overtime surcharge is payable for overtime worked during the week or 100% for overtime worked on a Sunday or a holiday.

Also, specific sector-level provisions may apply.

In certain cases, automatic wage indexation may apply. Automatic wage indexation can be in place to ensure that employees maintain their purchasing power in line with inflation. Automatic wage indexation is the annual adjustment of minimum wages and pay levels in line with the cost of living.

#### **When are wages due? For example, is there any obligation to pay wages weekly, or monthly?**

The salary must always be paid at the latest on the 4th working day following the month in which the employee worked and for which the employee thus receives pay.

For white collar employees: monthly.







For blue collar employees: at least twice a month. There should be a maximum of 16 days between the times of payment. Usually, the first payment is an advance, and the second payment is the final paycheck for the previous month.

### **Are employers obliged to provide employees with paid leave on public holidays?**

Yes, in Belgium, there are 10 public holidays:

- January 1
- Easter Monday
- Labor Day (May 1)
- Ascension Day
- Whit Monday
- Independence Day (July 21)
- Assumption Day (August 15)
- All Saints' Day (November 1)
- Armistice Day (November 11)
- Christmas (December 25).

In principle, employees may not be required to work during these public holidays, regardless of the nature of their functions, their seniority and the duration of their services.

The employer must pay for time off on public holidays and replacement days. The pay for a public holiday or a replacement day is equal to the pay that the employee would normally have earned if they had actually worked that day. This wage includes not only the basic wage but also the bonuses and other benefits that the employee would have received if they had worked that day.

### **Are employers obliged to provide employees with annual leave?**

Normally, full-time employees working 5 days per week are entitled to 20 days' leave and 10 public holidays. Employees may be entitled to additional holidays under collective bargaining agreements at industry level.

### **Are employees entitled to receive their usual salary during their annual leave?**

For white collar employees:

The employer pays the white-collar employees who take vacation days:

- a single holiday allowance: This is the normal wage for each day of vacation.
- a double holiday pay: This amounts to 92% of the gross salary of the month in which the main holiday is taken.

For blue-collar employees:

Blue collar employees receive their holiday pay through a vacation fund. The holiday pay amounts to 15.38% of the actually earned or notional gross wages (against 108%) of the vacation service year. The vacation pay is paid to the blue-collar employee when they take





their vacation and, in the event of splitting their vacation, following their main vacation and, at the earliest, on 2 May of the vacation year.

**Is there a requirement to pay overtime? How is overtime compensated?**

Yes.

There is a 50% overtime surcharge payable for overtime worked during the week or 100% for overtime worked on a Sunday or a holiday (or on a replacement day for a holiday).

Every hour the employee works overtime entitles them to one hour of paid catch-up rest or recuperation (100% of pay) that the employee must take at a time when they should have been working normally. The employee must usually take this catch-up rest within 3 months.

**Are there any extraordinary circumstances that could be relied on to temporarily cease paying employees for the hours worked?**

No.

**Are employees entitled to an end-of-year payment?**

This may be possible if provided for within the sector. Employees covered by Joint Committee 200, for example, are entitled to an end-of-year bonus.

**Are employees entitled to payments when their employment contract is terminated, such as notice or notice pay, accrued or untaken holiday and/or statutory severance?**

Please also see [below](#).

Yes, when the employment contract is ended a notice period has to be served on the employee or an indemnity in lieu of notice must be paid to the employee.

The notice to be given depends on the seniority of the employee. The calculation is twofold and must be accumulated:

1st stage: the notice calculated in accordance with the rules which were applicable up until 31 December 2013 (for employment up until that date)

2nd stage: the notice calculated in accordance with the fixed notice periods for employment accrued since 1 January 2014, which are fixed as follows.

Service	Notice by the employer	Notice by the employee
0 < 3 months	1 week	1 week
3 < 4 months	3 weeks	2 weeks
4 < 5 months	4 weeks	2 weeks
5 < 6 months	5 weeks	2 weeks
3rd quarter	6 weeks	3 weeks
4rd quarter	7 weeks	3 weeks
5th quarter	8 weeks	4 weeks





6th quarter	9 weeks	4 weeks
7th quarter	10 weeks	5 weeks
8th quarter	11 weeks	5 weeks
Year 2-3	12 weeks	6 weeks
Year 3-4	13 weeks	6 weeks
Year 4-5	15 weeks	7 weeks
Year 5-6	18 weeks	9 weeks
Year 6-7	21 weeks	10 weeks
Year 7-8	24 weeks	13 weeks
Year 8-20	+ 3 weeks per year	Remains 13 weeks
Year 20-21	+ 2 weeks per year	Remains 13 weeks
From year 21	+ 1 week per year	Remains 13 weeks

When the contract of a white-collar employee ends, the employer also pays the “departure holiday pay” for the vacation days that the employee has accrued with the employer but has not yet taken.

### Working hours

#### What is considered a full time working week? If the employee is contractually required to work less than this amount are they considered a part time employee?

If an employee works a maximum number of hours per week, this is a full-time employment contract. That maximum varies depending on the sector, but generally it amounts to 8 hours per day and 40 hours per week. Working hours are determined at the sectoral level. The exact working hours can be found in the sectoral CLA that the employer falls under.

#### Are there fixed public/statutory holidays each year? Can employees be required to work on public/statutory holidays? Are employees entitled to any other type of leave besides public/statutory holidays?

There are 10 public holidays in Belgium.

Other types of leave include:

- **Maternity leave:** 15 weeks (compulsory: 1 week before birth, 9 weeks after birth). The employment contract is suspended during maternity leave. Social security benefits are paid to the employee at 82% of the normal salary (during the first 30 days) and 75% of a limited salary (from day 31).
- **Birth leave** (paternity leave): 3 days at full pay and 17 days paid by social security, to be taken up within 4 months after the date of birth.
- **Parental leave:** Until child’s 12th birthday, parents with at least 12 months’ service are entitled to:





- full leave (employment contract is suspended) for 4 months; or
- 50% reduction of working time for 8 months; or
- 20% reduction of working time for 20 months.

A combination of the above is possible.

Social security benefits are available during leave subject to conditions.

- **Adoption leave:** An employee who adopts a child is entitled to adoption leave for an uninterrupted period of up to a maximum of 6 weeks to care for the child, regardless of the child's age. The maximum duration of adoption leave is extended by 2 weeks per adoptive parent in the case of simultaneous adoption of several children. The maximum duration of adoption leave is doubled (to a maximum of 12 weeks) if the child is disabled.
- **Additional adoption leave to be divided among the adoptive parents:** Adoption leave of a maximum six weeks per adoptive parent is increased by the extension period as follows for the parent concerned or for both parents together:
  - with three weeks from January 1, 2023;
  - with four weeks from January 1, 2025;
  - with five weeks from January 1, 2027.

In the case of two adoptive parents, these additional weeks must be divided between them.

Entitlement to the additional leave is subject to the further condition that the adoption leave request is submitted at the earliest from the entry into force of the relevant extension period and that the leave starts at the earliest from the date of entry into force.

The employee has the right to their normal salary to be paid by the employer during the first 3 days of adoption leave. For the rest of the adoption leave period, the employee does not receive any salary from the employer, but is entitled to social security benefits.

### **Do part time employees receive any particular protection on the basis of their part-time status?**

Yes. Employers must not treat part-time employees less favorably than their full-time counterparts (provided that such employees are in a comparable situation) solely on the basis that such employees are working on a part-time employment contract. This essentially means that part-time employees are, in principle, entitled to receive the salary that is proportionally equal to the salary of a full-time employee for the same work or work of equal value. A difference in treatment can however be justified by objective reasons.

If the part-time work is performed as part of (for example) an application for parental leave or time credit, the employee may enjoy certain dismissal protection.

### **Do part-time employees receive the same pro-rated terms to full time employees, e.g. in relation to pay and benefits?**

Yes, see [above](#).

### **Social security**





### **What social security contributions are employers obliged to pay? Presumably, pro-rated contributions are required for part time employees?**

Belgian social security draws most of its funds from a levy on the salary of the employees: the social contributions or NSSO contributions. Part of these contributions is paid by the employee, part by the employer.

The organization that calculates, collects and distributes the contributions among social security institutions is the National Social Security Office (NSSO) Every employer must register with the NSSO.

Employee contributions in the private sector are 13.07% of gross pay. The employer contribution rate for the private sector is 25%. The not for profit and public sector rates differ. The private not for profit pays ± 32%. However, they can recover a portion through structural contribution reductions, so the actual percentage for the sector is lower.

For blue collar employees, the social security contributions are calculated on the gross salary plus 8%.

### **Are employers obliged to provide health insurance to their employees?**

No, every Belgian citizen is required to have health insurance. That insurance ensures that the person is reimbursed for most medical consultations and that they are entitled to benefits in the event of illness or disability, for example. It is not up to the employer to provide this.

Employers do have an obligation to provide occupational accident insurance for their employees.

### **Are employees entitled to unemployment insurance/benefits following the end of employment?**

The employee may be entitled to unemployment benefits under certain conditions, namely if

- they have neither work nor income due to circumstances beyond their control;
- they have worked a certain number of days during the reference period preceding the application for unemployment benefits; and
- they are available for work.

### **Are employers obliged to provide sick leave? If yes, for how long? How many days have to be paid by employers? Is it possible to have unpaid sick leave?**

Blue-collar employees with at least one month of service are entitled to their full salary for the first 7 days' of sick leave absence (paid by the employer). From the 8th until the 14th day of sick leave absence, the blue-collar employees receive a payment from their employer of 85.88% of their normal salary. From the 15th day until the 30th day the blue-collar workers will receive a payment of 60% of their gross salary from the National Institute for Sickness and Invalidity Insurance, supplemented with a payment from the employer of 25.88% of the normal salary. After this period, the employee will only be paid by the public authorities.

White-collar employees with at least one month of service are normally entitled to 30 days of full pay. However, rules are different where the employee has an employment contract of limited duration.





After the periods paid for by the employer expire, the social security system covers any further period of incapacity. After one year of incapacity, the employee has to undergo a medical examination.

**Are employers obliged to provide maternity leave for employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid maternity leave?**

Please see [above](#).

**Is paternity leave available to employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid paternity leave?**

Please see [above](#).

**Are employers liable for absence due to work-place injuries?**

After the sick leave periods paid for by the employer expire, the social security system covers any further period of incapacity. Please see [above](#).

**Are employees entitled to retirement benefits from the employer? If yes, what benefits?**

Yes. On top of the state pension (first pillar pension), there is a possibility to accrue an occupational pension (second pillar pension). Occupational pension plans are not however mandatory, so an employer is not obliged to offer an occupational pension to its employees. However, if a sector plan has been introduced at the level of a business sector (within the applicable Joint Labour Committee or JLC) through a CLA, all employers operating in this business sector (Joint Labour Committee or JLC) are obliged to participate in this sector plan, unless the CLA allows companies not to join the sector plan ("opting out"), provided that they have their own company pension plan that provides at least the equivalent level of the sector plan.

Occupational pension plans can be defined benefit (DB), defined contribution (DC) or Cash Balance (CB), the latter being a mix of the first two. In recent years, many DB schemes have been closed to future participation, since employers prefer the financing predictability of DC schemes.

Occupational pension benefits are paid as from the legal retirement, on top of the statutory pension, and can take the form of a one-off lump sum (which is the most usual practice) or a periodic (monthly, annual etc.) annuity.

It is also possible for pension plans to provide for death benefits or invalidity benefits.

Further, there may be specific situations for accruals of pension rights during periods of inactivity, or for so-called social pension plans, cafeteria plans (i.e. a flexible scheme where employees are provided with a budget to choose additional benefits) and bonus plans.

**Are employers obliged to introduce reporting channels and legal safeguards for whistleblowers?**

Yes. Companies with more than 50 employees must establish a secure internal reporting channel where employees can report verbally or in writing. Companies with more than 250 employees must introduce an anonymous reporting option.





### 3 Safe and supportive work environment

#### **Broadly what measures have to be in place to ensure employers uphold health and safety? (such as fire or earthquake drills)**

The Belgian regulations on wellbeing at work are very extensive.

Every company is obliged to have an internal service for prevention and protection at work (ISPPW). This service must assist the employer, the management and the employees in the application of the regulations concerning the well-being of the employees. Each employer therefore needs to have an internal prevention advisor. In companies with fewer than 20 employees, the employer may fulfil this function of the prevention advisor itself.

Every employer in Belgium whose ISPPW cannot carry out all tasks relating to well-being at work itself, is obliged to additionally affiliate with an external service for prevention and protection at work (ESPPW). This ESPPW contains a medical supervision department consisting of a prevention advisor company doctor and a prevention advisor on psychosocial aspects. In practice, since it is rarely the case that a company's internal service can perform all prevention tasks itself, almost every employer must join an external service for prevention and protection at work.

For companies that employ at least 50 employees on average, it is mandatory to set up a committee for prevention and protection at work (CPPW). The CPPW is a consultative body. It is concerned with the health and safety of employees and oversees the wellbeing policy in the company. The CPPW consists of representatives of the employer and a group of elected representatives of the employees. The next social elections are due in 2024. If no committee is elected, the trade union delegation in the company takes over the role of the committee and if there is also no trade union delegation, the employer must consult its employees directly on matters affecting their well-being at work.

Each employer must develop a strategy for carrying out a risk analysis on the basis of which preventive measures are determined. The risk analysis is carried out at the level of the organization as a whole, at the level of each group of workstations or functions and at the level of the individual.

Each employer, in consultation with the members of the management and the services for prevention and protection at work, must draw up a written global prevention plan (GPP) for a period of 5 years within which the prevention activities to be developed and applied are set out.

In consultation with the members of the management and the services for prevention and protection at work, the employer must also draw up a written annual action plan to promote well-being at work during the following year of service.

Fire drills must be carried out in line with the employer's prevention policy.

#### **Is there a requirement for an employer to issue any form of non-discrimination policies? (such as gender equality policies, equal employment opportunities, diversity, and inclusion policies, etc.)**

No, this is not mandatory. However, for every employer it is mandatory to have work regulations (a company handbook) in place.

#### **Is there a requirement to provide employees with training designed to combat discrimination and harassment?**





No. However, the work regulations (company handbook) must include a chapter on psychosocial wellbeing and the procedures to follow in case of a complaint.

**Is there a requirement to have a data protection policy?**

No, this is not mandatory but recommended. It is often included in the work regulations or in the employment contract of the employee.

**Is it mandatory for employers to have a Child Protection Policy (CPP)? Are employees obliged to provide training on CPP to its employees?**

No.

## 4 Tax

**Which taxes are mandatory for employers to pay and deduct on behalf of their employees?**

The employer withholds a tax from any salary it pays. This “withholding tax” counts as an advance on the employee's taxes.

**Are all employee taxes deducted from the salary that the employer pays or is there a requirement for employees to pay certain taxes directly?**

In Belgium, the taxation of the income of employees occurs in two stages. The first step is via a withholding tax on wages and the second step is via the calculation of the final tax. Employers must withhold tax at source from the taxable salary (gross salary less social security contributions due to the NSSO) that they pay or grant to their employees and remit it to the State. This withholding tax is then credited against the tax owed by the employee.

## 5 Remote work

**Are employers required to have a registered legal entity in the jurisdiction in order to employ employees in the jurisdiction?**

No, it is not mandatory to have a registered entity in Belgium.

**Are employers required to provide any form of physical working space for employees working in your country?**

No, this is not a requirement.

**Please provide general instructions for employers on what to check if the employer has remote employees, including concerning employee tax liabilities.**

In Belgium, there are 2 types of telework:

- Occasional telework i.e., telework on an occasional basis due to force majeure or personal reasons. It is regulated by the Act of 5 November 2017 regarding workable and agile work; and
- Structural telework i.e., telework on a regular basis. It is regulated by national CLA N° 85.







In the case of structural telework, a written agreement between employer and employee is mandatory. To be valid this written agreement must contain the following mandatory items:

- frequency of telework and the days and hours on which telework is performed or the days and hours of presence in the company;
- times when or periods during which the employee must be reachable and through which means;
- rules on which party bears the costs associated with the equipment required for the teleworking;
- times when the teleworker can call on technical support;
- the additional rules for a return to the business location and, where appropriate, the notification period and/or the duration of the telework and the method of extension;
- the place(s) that the teleworker has chosen to perform their work.

Please also note that to be valid the written agreement must be translated in the correct social language, based where the company is based in Belgium.

When agreeing on structural telework the employer must provide, install, and maintain the equipment an employee needs for the telework. In practice, many employers pay an expense allowance.

The place(s) where the employee will telework will determine the tax implications.

## 6 What to do when things go wrong

### Dispute resolution

#### **Do employees (including volunteers) need to go through any form of dispute resolution before bringing a claim to a court or tribunal?**

No, this is not mandatory. It is common to first send a letter of default to the company, after which the lawyers first try to solve the matter between the parties before starting proceedings.

### Resignation

#### **What grounds do employees have for resignation?**

The employment contract can be terminated by the employee at any time for a variety of reasons, however the correct legal notice period must be observed.

The notice to be given depends on the seniority of the employee. The calculation is two-fold and must be accumulated:

1st stage: the notice calculated in accordance with the rules which were applicable up until 31 December 2013 (for the seniority up until that date)

2nd stage: the notice calculated in accordance with the fixed notice periods for the seniority accrued since 1 January 2014, which are fixed under the law.

The 2nd stage notice periods are the following:





Service	Notice by the employee
0 < 3 months	1 week
3 < 4 months	2 weeks
4 < 5 months	2 weeks
5 < 6 months	2 weeks
3rd quarter	3 weeks
4rd quarter	3 weeks
5th quarter	4 weeks
6th quarter	4 weeks
7th quarter	5 weeks
8th quarter	5 weeks
Year 2-3	6 weeks
Year 3-4	6 weeks
Year 4-5	7 weeks
Year 5-6	9 weeks
Year 6-7	10 weeks
Year 7-8	13 weeks
Year 8-20	Remains 13 weeks
Year 20-21	Remains 13 weeks
From year 21	Remains 13 weeks

## Termination

### What grounds do employers have for the termination of employment contracts?

The termination of an open-ended employment contract cannot be based on reasons that are not (a) either connected to the aptitude or the behavior of the employee or (b) based on the employer's operational needs, and which would have never been decided by a normal and reasonable employer.

If the grounds are weak, it will expose the employer to the risk of having to pay an additional indemnity if a manifestly unfair dismissal is found. Ultimately, a court will determine whether the termination was unreasonable and unjustified.

It is possible for the employee to request the reasons for their termination. The request should be sent via registered letter and the employer then has two months upon receipt of the registered letter to inform the employee, via registered mail, about the reasons for their termination. If the employer does not inform the employee or does not inform them correctly, the employee will be





entitled to a lump sum civil fine amounting to two weeks' salary. Whether or not the employer responds to the employee's request will affect the burden of proof in the event of a claim for a manifestly unfair dismissal by the employee.

If a manifestly unfair dismissal is found, the employee will be entitled to damages (3-17 weeks' salary depending on the gravity of the unreasonable and unjustified termination). Any liability to any civil fine will be in addition to this damages payment.

### How do employers have to document the termination of an employment contract?

The procedure which must be followed regarding termination depends on the type of contract: fixed-term or open-ended contract.

A fixed-term contract expires automatically at the end of the agreed term. No compensation is payable. In the event of an earlier termination, the salary until the end of the fixed term is payable. However, this is limited to a maximum of twice the termination exposure of an open-ended contract.

Fixed-term contracts may be terminated by giving notice (i.e. the same notice as for an open-ended contract) during the first half of the agreed term, but the period within which notice may be given may not exceed six months. A party who terminates a fixed-term contract during the first half of the agreed term and without exceeding the period of 6 months, without having a serious reason and without observing the notice period must pay the other party compensation equal to the salary corresponding either to the notice period or to the remaining part of that period.

When terminating an open-ended contract, taking into account a notice period, the employer must serve the employee with a letter through a bailiff or send a termination letter (containing mandatory content) by registered mail. A termination letter is deemed to be served three working days from the time the letter is mailed. The employee's notice period takes effect on the Monday following the termination letter having been served on the employee.

The notice to be given depends on the seniority of the employee. The calculation is two-fold and must be accumulated:

- 1st stage: the notice calculated in accordance with the rules which were applicable up until 31 December 2013 (for the seniority up until that date)
- 2nd stage: the notice calculated in accordance with the fixed notice periods for the seniority accrued since 1 January 2014, which are fixed under the law.

The 2nd stage notice periods are the following:

Service	Notice by the employer
0 < 3 months	1 week
3 < 4 months	3 weeks
4 < 5 months	4 weeks
5 < 6 months	5 weeks
3rd quarter	6 weeks
4rd quarter	7 weeks





5th quarter	8 weeks
6th quarter	9 weeks
7th quarter	10 weeks
8th quarter	11 weeks
Year 2-3	12 weeks
Year 3-4	13 weeks
Year 4-5	15 weeks
Year 5-6	18 weeks
Year 6-7	21 weeks
Year 7-8	24 weeks
Year 8-20	+ 3 weeks per year
Year 20-21	+ 2 weeks per year
From year 21	+ 1 week per year

When terminating a contract with immediate effect there are no formal requirements which need to be followed. In this case an indemnity in lieu of notice is payable to the employee. The indemnity in lieu of notice will be equal to the salary the employee would have received if they had served the notice period.

A contract can also be terminated with immediate effect for gross misconduct. In this case, the employer does not need to pay any indemnity in lieu of notice, nor respect a notice period, but a strict procedure must be followed to avoid the risk of having to pay compensation in lieu of notice:

- Within three days starting with the day after the employer’s knowledge of the gross misconduct, the employee must be notified of the dismissal for gross misconduct.
- Within a second period of three days following the day after the notification of the dismissal for gross misconduct to the employee, the reasons which lead to that decision must be notified to the employee.
- The notification (of the dismissal and the reasons) has to be made by letter delivered by a bailiff (with the employee signing a duplicate of the document as proof of receipt), by registered mail, or by delivery of the letter by the employer to the employee and the employee signing the duplicate of the letter as proof of its receipt (but note that this option is only possible for the dismissal letter, not the reasons letter).

**What is the responsibility of employers for damages incurred by an employee’s actions within his/her work?**

In principle, the employer is liable for damage caused by the employee during the performance of the employment contract, except in cases of fraud, serious fault or frequent minor fault of the employee.





## b. Independent contractors/consultants\*

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#### *Definition of an independent contractor/consultant*

A consultant (or self-employed person) is a natural person who exercises a professional activity for which he is not bound by an employment contract or an employment statute. The relationship is characterized by the complete absence of employer authority.

\* *The term consultant will be used to also refer to independent contractors, or any other term that would mean a person that provides goods or services under a written contract or a verbal agreement but does not work to meet the definition of employee.*

### 1 Contracts

#### **What types of independent contractor/consultant agreements are available? Are there any specific agreements available to NGOs?**

Typical types of agreement include service agreements and consultancy agreements.

#### **What are the main elements of consultant agreements?**

The main elements include compensation, duration, termination, liability, confidentiality, wellbeing at work (the consultant undertakes to comply with and have its subcontractors comply with its obligations regarding the wellbeing of employees in the performance of their work, which are specific to the company), and any agreements specific to the particular arrangement.

#### **Is it possible to have probation periods for independent contractors/consultants? If yes, for how long?**

Yes, this is possible. There is no time limit.

#### **Is it possible to have a fixed term consultation/independent contractor agreement? Are there any restrictions around fixed term consultant/independent contractor agreements?**

Yes, this is possible. There is no time limit.

#### **Do independent contractor/consultant agreements have to be in writing? Are there any signatory requirements? For example, could they be signed in-person or electronically, etc.)?**





Although, in principle, a consultation/independent contractor agreement could be concluded verbally, for tax and accounting purposes, as well as for the sake of securing evidence of the applicable terms and conditions agreed between the parties, a written form would be needed. There are no specific signatory requirements. Electronic signatures are permissible if they comply with the local and EU laws governing electronic documents and electronic signatures.

**Do all types of independent contractors/consultants have to be under contract in order to be able to work?**

Yes, we recommend that a written agreement be drawn up.

**Can you provide a simple template of the agreements mentioned above?**

N/A.

**Is there an obligation to run a criminal record check to the extent that any independent contractor will be working with children or vulnerable people?**

In some cases, an extract of criminal record ("minors model") is required for specific activities involving contact with children and youths, such as parenting, psycho-medical-social counseling, youth assistance, child protection, animation or supervision of minors. A criminal record check cannot be run by the contracting party itself.

## 2 Conditions of work for consultants

**Are there any minimum age requirements for an individual to work under a consultant/independent contractor agreement?**

Individuals must be at least 18 years old to commence a business as a consultant (self-employed person).

**Does a consultant/independent contractor need to obtain a license or any other permission in order to work?**

To start self-employment, the individual must apply for a company number and a VAT number. Depending on the self-employed activity that will be performed, the individual may also need certain license(s) or permission(s).

### Payment

**Are there any minimum pay requirements for consultants/independent contractors?**

No.

**Are there any exceptions in minimum wages for young persons or people with disabilities?**

No.

**Is there any requirement to provide statutory/paid leave to consultants for statutory holidays?**

No.

**Is there any requirement to pay annual leave to consultant/independent contractors? If so, how is this compensated, if at all?**

No.





**Is there an obligation to provide consultant/independent contractors with overtime?  
How is this compensated if required?**

There is no such requirement by law.

**Are consultants entitled to an end-of-year payment?**

No.

**Are consultants entitled to a final payment when the contract is terminated?**

No.

**Working hours**

**Are consultants entitled to any type of leave, whether paid or unpaid?**

No, unless by agreement between the parties.

**Social security**

**Does the end user engager need to make any social security contributions on behalf of a consultant/independent contractor? Are independent contractors entitled to health insurance from the end user engager?**

No. The consultant must join a social insurance fund and make quarterly social contributions.

**Are independent contractors/consultants entitled to unemployment insurance/benefits after termination of their independent contractor/consultancy agreement from the end user engager?**

No.

**Are independent contractors/consultants entitled to sick leave from the end user engager? If yes, for how long? How many days have to be paid?**

No.

**Are independent contractors/consultants entitled to maternity leave from the end user engager? If yes, for how long? How many days/months have to be paid?**

No.

**Are independent contractors/consultants entitled to paternity leave from the end user engager? If yes, for how long? How many days/months should be paid?**

No.

**Are employers obliged to cover work-place injuries for independent contractors/consultants?**

No.

**Are independent contractors/consultants entitled to retirement benefits from the end user? If yes, what benefits?**

No.





### 3 Safe and supportive work environment

#### **Are there any differences in terms of the regime that applies to employees?**

Yes, the regime that applies to employees is not applicable. The consultant must undertake to comply with and have its subcontractors comply with its obligations regarding the wellbeing of employees in the performance of their work, which are specific to the company where they will work.

### 4 Remote work

#### **Are end user engagers required to have a registered legal entity in the jurisdiction in order to hire independent contractors/consultants there?**

No.

### 5 What to do when things go wrong

#### **Resignation**

#### **Do consultants/independent contractors need a reason to terminate the contract or can they terminate it for any reason in accordance with the terms of the contract?**

The position will depend on the agreement between the parties.

#### **Termination of agreement**

#### **What grounds do end user engagers have for the termination of consultant agreements?**

The position will depend on the agreement between the parties.

#### **What is the responsibility of the end user engagers for damages incurred by a consultant's actions within his/her work?**

The position will depend on the agreement between the parties.







## c. Volunteers

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#### *Definition of a volunteer*

A volunteer is someone who performs work of their own free will, outside of a permanent employment relationship. Generally, such work is unpaid, but sometimes a small stipend (e.g., for expenses or travel) is provided.

### 1 Contracts

#### **Are organizations required to sign any form of agreement with volunteers?**

A written volunteer agreement is strongly recommended because the organization has a duty of information to the volunteer that it must be able to prove it has complied with.

The Volunteer Act aims to protect volunteers and therefore imposes a duty to inform (it is not a legal requirement for this to be in writing, but this is recommended) the individual of some basic elements at the start of the engagement, namely:

- The purpose of your organization. Why does the organization exist? What does the team want to achieve?
- The organizational structure of the non-profit organization, actual association, or municipal government.
- The insurance policies in place for volunteers.
- Whether an expense reimbursement is given - and if so - what kind.
- The duty of discretion for every volunteer.

For organizations that fall under the Flemish Decree on Volunteering (Wellbeing, Health and Family), additional information is required, and this information must be provided in writing to the volunteer.

### 2 Conditions of employment

#### **Is there a minimum age requirement for volunteers?**

Volunteering is not allowed until the individual is at least 15 years old and has completed the first two years of secondary education. From the age of 16, volunteering is permitted.





### **What type of volunteering work may a child undertake? Are there any restrictions around this?**

In any case, young volunteers (above 15 years) are prohibited from carrying out any activity that may adversely influence their development pedagogically, intellectually, or socially, or put their physical, psychological, or moral integrity at risk, or which is harmful to any aspect of their wellbeing.

### **Payments and reimbursement**

#### **Are organizations allowed to pay stipends to volunteers?**

By definition a volunteer does not receive any salary. Expenses incurred by the volunteer for the organization may be reimbursed where agreed.

Systems to reimburse the expenses of volunteers include:

- An ordinary flat-rate expense allowance, possibly supplemented by a limited mileage allowance. The latter is limited to 2,000 km, except for volunteers who regularly transport people.
- An actual expense allowance with supporting documents, including the kilometer allowance.
- An increased flat-rate expense allowance for certain sectors, possibly supplemented by a mileage allowance.

The limits of the flat-rate expense allowance for 2023 are €40.67 per day and €1,626.77 per year. Within these limits, this allowance is deemed to cover expenses actually incurred, without having to prove those expenses.

An expense allowance is not income so there are no taxes or NSSO contributions. An expense allowance is taxed only if the maximum amounts are exceeded.

#### **Are organizations allowed to reimburse volunteers? If yes, for what expenses (such as transportation, food, etc.).**

See [above](#).

### **Working hours**

#### **Are there any obligations around how many hours volunteers can work?**

There is generally no limit to the number of hours volunteers can work, but it is important to respect the maximum amounts of the expense allowance (if any) so that this is not reclassified as salary.

However, young people under 18 may not volunteer for more than 23 hours per week and those under 16 may not volunteer for more than 22 hours per week.

#### **Are volunteers entitled to any type of leave?**

No.

### **Social security**

#### **Are organizations obliged to pay any social security contributions on behalf of their volunteers?**





No.

**Are organizations obliged to provide health insurance to volunteers?**

No. Every Belgian citizen is obliged to take out health insurance personally.

However, the Volunteer Act stipulates an insurance obligation for all organizations. In addition, the Flemish Decree on Volunteering imposes a more extensive insurance obligation for:

- the civil liability of the organization
- the civil liability of the volunteer for damage caused to the organization, to other volunteers, to the applicant for help or to third parties during the performance of the voluntary work or on the way to and from the voluntary work;
- physical and material damage suffered by volunteers in accidents during the performance of the voluntary work or on the way to and from the voluntary work;
- occupational diseases and infection.

**Are organizations liable for absences of volunteers due to work-place injuries?**

No.

### 3 Safe and supportive work environment

**Are there any differences in terms of the regime that applies to employees?**

Yes. Volunteers are not subject to the Belgian Act on Wellbeing at Work except where there is a relationship of authority. This would be assessed by the courts, as this is a question of fact. In any case, these situations are very limited. Volunteer firefighters, for example, fall under the assimilation because the voluntary nature of their activity lies only in their commitment. From the moment they perform their activities, authority is exercised over them.

### 4 Tax

**Are organizations obliged to pay taxes if they pay their volunteers stipends? If yes, what types of taxes are mandatory to pay?**

No, if the maximum amounts are not exceeded. See question [above](#).

### 5 What to do when things go wrong

**What grounds do organizations have for the termination of volunteer agreements/arrangements?**

Both the volunteer and the organization can end the collaboration. There is no obligation to state reasons.

**What is the responsibility of organizations for damages incurred by a volunteer's actions within his/her work?**

The Volunteers Act provides immunity for volunteers in many organizations. However, the immunity is not comprehensive:

- It applies only to civil liability, not criminal liability.





- For damages to oneself, immunity does is invalid.
- Immunity does not apply to (many) de facto associations. However, the volunteer can be protected with civil liability insurance.
- The volunteer can lose immunity in case of a minor repetitive fault, gross misconduct, intentional conduct or fraud.





## d. Non-citizen employees and consultants, including refugees and others forcibly displaced

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### 1 Status and the right to work

#### **Are employers obliged to secure legal status for their employees or consultants if they are non-citizens? (such as refugee status, humanitarian visas, visas for trafficking survivors, other recognized protection statuses, etc.)**

Employers have an obligation to check whether their employees are licensed to work in Belgium.

#### **Are employers obliged to secure work permits for their employees or consultants?**

Yes, for their employees in specific cases depending on the employee's personal situation and the specific employment.

More information can be found on the following websites:

- Flemish Region: <https://www.vlaanderen.be/en/working-enterprise-and-investment/working>
- Walloon Region: <https://emploi.wallonie.be/en/home/travailleurs-etrangers/permis-de-travail.html>
- Brussels-Capital Region: <https://economy-employment.brussels/single-permit-work-permit>.

#### **Is it always necessary to obtain a work permit?**

It depends on the situation. Please see [above](#).

#### **Can asylum-seekers and other persons forcibly displaced access the right to work if they do not have refugee status or other recognized protection statuses?**

Asylum seekers are allowed to work in Belgium four months after submitting their application for international protection. The right remains valid until a decision on the application for international protection is made. Recognized refugees are allowed to work, just like Belgian citizens.





## 2 Contracts

**Are employment contracts or consultant agreements for non-citizens different to those for citizens?**

No.

## 3 Conditions of employment

**Does national law regulate the quotas for the number of non-citizens within one organization?**

No.

**Are employers obliged to report about employed non-citizens?**

No.

**Are there any other differences in conditions of employment for non-citizens and citizens?**

No.

**Are there any specific employment terms that apply to citizens but not apply to non-citizens?**

No.

## 4 Safe and supportive work environment

**Are there any differences in a safe and supportive work environment approach for non-citizens? If yes, please elaborate here.**

No.

**Does the employer have additional obligations for non-citizens?**

No.

## 5 What to do when things go wrong?

**Is the process of termination of an employment contract for non-citizens different than for citizens? If yes, please explain here.**

No.

**Is the process of resignation for non-citizens different than for citizens? If yes, please explain here.**

No.

**Are non-citizens entitled to the equal protection of employment laws in the event of employment-related disputes?**

Yes.





For more information please visit [pilnet.org](http://pilnet.org)