

## **Social Elections 2020 | What Are the Last Points of Attention?**

Referring to our Belgian Newsletter of July 2020, you will find below an overview of the last points of attention regarding the social elections of 2020 (the **Social Elections**), which should be organised at the latest between 16 and 29 November 2020.

### **1. AGREEMENT ON ELECTRONIC VOTING: THE DEADLINE HAS BEEN EXTENDED**

The increase in the number of COVID-19 contaminations in recent weeks unfortunately required new measures to be taken, such as making teleworking the norm again.

Nevertheless, **Social Elections should still be organised between 16 and 29 November 2020**, in accordance with the Royal Decree of 15 July 2020 (*Koninklijk besluit tot regeling van de herneming van de procedure sociale verkiezingen 2020 die werd opgeschort op basis van de wet van 4 mei 2020 tot regeling van de opschorting van de procedure sociale verkiezingen van het jaar 2020 ingevolge de coronavirus Covid-19-pandemie / Arrêté royal visant à régler la reprise de la procédure des élections sociales 2020 suspendue sur la base de la loi du 4 mai 2020 visant à régler la suspension de la procédure des élections sociales de l'année 2020 suite à la pandémie du coronavirus Covid-19*; the **Royal Decree**).

In order to encourage as many employers as possible to **organise (remote) electronic voting** within the framework of the Social Elections, the Law of 15 July 2020 (*Wet tot wijziging van de wet van 4 mei 2020 tot regeling van de opschorting van de procedure sociale verkiezingen van het jaar 2020 ingevolge de coronavirus COVID-19-pandemie om de termijn tot het afsluiten van een akkoord om elektronisch te stemmen bij de sociale verkiezingen 2020 te verlengen / loi modifiant la loi du 4 mai 2020 visant à régler la suspension de la procédure des élections sociales de l'année 2020 suite à la pandémie du coronavirus COVID-19 afin de prolonger le délai imparti pour conclure un accord sur le vote électronique en vue des élections sociales de 2020* / the **Law of 15 July 2020**) has extended the deadline for concluding an agreement with the employees' representatives regarding the organisation of (remote) electronic voting.

In accordance with the Law of 15 July 2020 and the Royal Decree, the employers should reach an agreement regarding electronic voting at the latest on day X + 56 (*i.e.*, between 13 and 26 October 2020) with the employees' representatives concerned.

**The agreement on electronic voting** with the employees' representatives should include **a number of mandatory items**, such as:

- the specific conditions to guarantee the secrecy of the voting and to avoid any influence on voting behaviour during the voting;
- an identification of the employees who will participate in the electronic voting;
- whether electronic voting will be organised on-site or remotely from home or a combination of both;
- the identification tools for voters; and
- the computer software which will be used.

In addition, the agreement on electronic voting must be communicated to the employees immediately via the posting of a notice, as well as to the Federal Public Service Employment, Labour and Social Dialogue (the *FPS Employment*) via an online application.

## 2. AN AGREEMENT ON ELECTRONIC VOTING HAS NOT BEEN CONCLUDED IN A TIMELY MANNER

If no agreement on electronic voting has been reached by day X + 56, **the Social Elections must be held physically at the premises of the organisation.** In such an event, it is important to bear in mind the following guidelines, in particular given the current COVID-19 measures:

- **For employees** who are **physically present** within the organisation: **a convocation to vote must be handed over** no later than 10 days before the date of the elections (day X + 80).
- **For employees** who are **not physically present** within the organisation, for example due to teleworking or the application of the regime of temporary unemployment: **a convocation must be sent within the same timeframe by registered mail or by any other communication tool (e.g., by e-mail).** The employer should be able to demonstrate the actual sending of the convocation and its receipt. Hence, if the convocation would be sent by e-mail, it is recommended to request the employees to acknowledge receipt.

In the absence of proof of receipt by the employees, additional measures should be complied with by day X + 82 at the latest.

- **Temporarily unemployed employees** who are not expected to be working at the time of the voting **can only be requested to vote** and not to pursue any professional performances. In line with the Social Inspectorate's recommendations, they must receive proper compensation for their commuting costs to the voting premises as well.
- **Social distancing rules should be ensured** throughout the entire voting process: in view of the current pandemic, it is of course crucial to preserve the health of employees. In this respect, employers should comply with:
  - (i) the generic safety guidelines drawn up by the social partners of the High Council for Prevention and Protection at Work, in consultation with the Strategic Cell of the Minister of Employment and experts from the FPS Employment (available in English - [click here](#)); and/or
  - (ii) the specific recommendations and agreements concluded at sector level, by several joint committees (for a list of the sector guides (available in French and Dutch) - [click here](#)).

## 3. HOW CAN VBB ASSIST?

VBB would be pleased to assist with all the formalities and legal requirements in relation to the Social Elections. VBB can, for example, assist with:

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- the drafting of an agreement regarding electronic voting;
- the drafting of the convocations for the employees; and
- the implementation of the necessary guidelines in order to ensure compliance with social distancing rules during the entire voting process.