September 2024

VBB on Belgian Business Law

Issue Highlights

"Van Bael & Bellis' Belgian competition law practice [...] is a well-established force in high-stakes, reputationally-sensitive antitrust investigations."

Legal 500, 2019

Topics covered in this issue

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COMMERCIAL LAW

Royal Decree Amends Again Scope of Duty to Supply Precontractual Information in Commercial Partnerships

On 11 September 2024, the Belgian Official Journal (*Belgisch Staatsblad / Moniteur belge*) published a Royal Decree of 19 August 2024 supplementing and clarifying the data listed in Article X.28, §1, 1° and 2° of the Code of Economic Law (***CEL***) and establishing a model of an estimated operating account (*Koninklijk Besluit van 19 augustus 2024 tot aanvulling en verduidelijking van de lijst van gegevens opgesomd in artikel X.28, §1, 1° en 2°, van het Wetboek van Economisch Recht en tot vaststelling van een model van een geraamde exploitatierekening / Arrêté royal du 19 août 2024 complétant et précisant la liste des données énumérées à l'article X.28, §1er, 1° et 2°, du Code de droit économique et établissant un modèle de compte d'exploitation prévisionnel* – the ***Royal Decree***).

Article X.28, §1 CEL contains the information that must be included in the precontractual information document (***PID***) regarding commercial partnerships. Commercial partnerships are defined in Article I.11, 2° CEL as agreements between several persons granting to one of these persons the right to use, in selling products or providing services, a commercial formula in the form of a common signboard, a common trade name, a transfer of know-how and/or commercial or technical assistance. The current list of information that must be included in the PID was introduced by the Law of 9 February 2024 containing various provisions relating to the economy (*Wet van 9 februari 2024 houdende diverse bepalingen inzake economie / Loi du 9 février 2024 portant dispositions diverses en matière d'économie*; *see*, this Newsletter, Volume 2024, No. 2 for a discussion of the Bill leading to this Law) and has applied since 1 September 2024.

The Royal Decree clarifies and supplements both the list of "important contractual provisions" (Article X.28, §1, 1° CEL) and the list of "*data for the correct assessment of the commercial partnership agreement*" (Article X.28, §1, 2° CEL) to be included in the PID. The Royal Decree thus aims to ensure that the party which is given the right to use the commercial formula (***grantee***) is better informed of the competitive environment in which it will operate, as well as of any expansion plans and of the investments that may have to be made periodically.

The Royal Decree supplements the list of data in Article X.28, §1, 2° with the following new points:

- *Information regarding the expansion plans of the person granting the right (**grantor**) of which the grantor is aware at that time in the trading area*

Since the grantor knows (i) the history and situation on the market in which the grantee will operate from both a general and local perspective; and (ii) its own expansion plans in the trading area, the Royal Decree considers it appropriate to require it to inform the grantee of these plans, thus enabling the grantee to make a realistic estimate of its operating account.

According to the Royal Decree, the term "trading area" (*handelsgebied / zone de chalandise*) is a well-known term which it notes the European Commission uses in its Guidelines on vertical restraints as well (§ 203, § 206, and § 212).

The Royal Decree does not elaborate on the level of detail which the expansion plans must show.

- *The applications for an operating licence or an establishment permit submitted to the competent authorities for fully or partially competing outlets in the trading area, if provided in the regulations and to the extent that this information is available*

The term "competing outlets" refers to outlets of competitors of the grantor. The Royal Decree notes that the grantor is aware or should be aware of the expansion plans of its competitors in the trading area and should inform the grantee of these plans to allow the grantee to make a realistic estimate of its

COMMERCIAL LAW

operating account. Hence, the Royal Decree imposes on the grantor an active duty to investigate. It cannot simply rely on what is in the public domain but must demonstrate a genuine effort to inquire about the expansion plans of competitors. However, if the grantor is unable to obtain this information for reasons outside of its control - for instance because the authorities have refused to provide such information - it will not be considered to be in breach of its obligations.

- *If it is customary within the network to which the agreement relates to invest periodically, information about these investments, including an estimate of the amounts to be invested*

This provision complements Article X.28, 2°, k) CEL, which requires the grantor to disclose the expenses and investments which the grantee agrees to make at the time of concluding and during the term of the commercial partnership. The newly added provision does not pertain to contractually binding obligations to make specific investments. Instead, it refers to routine maintenance or refreshment works that are customary in an industry but not explicitly required under the contract.

- *An estimated operating account over a period of at least three years, so that the grantee can prepare its own operating account based on the model in annex*

This provision aims to assist the grantee in preparing its own financial projections. Although the grantor is required to provide the grantee with an estimated operating account, the grantor cannot be held accountable for the actual success or failure of the grantee's operations. The success of the grantee's business indeed depends on many factors which are outside of the grantor's control, including, for instance, deviations from best management practices.

Further, the Royal Decree clarifies the meaning of Article X.28, §1, 1°, e) CEL, pursuant to which the grantor should inform the grantee of "*the exclusive rights that are reserved to the grantor*". The Royal Decree explains that the exclusive rights concerned are those relating to the sale of identical or similar goods or services using the same signboard or trade name in outlets located in the trading area of the grantee as defined by the grantor.

The Royal Decree will enter into force on 1 March 2025 and will apply to (i) new commercial partnerships concluded on or after 1 March 2025; and (ii) amendments and renewals of existing commercial partnerships occurring on or after 1 March 2025. Accordingly, PIDs issued before 1 March 2025 but related to commercial partnerships to be concluded after 1 March 2025 must also satisfy the requirements of the Royal Decree.

The Royal Decree is available here.

COMPETITION LAW

European Commission Report on Competition Interim Measures Shows Prominent Role for Belgian Competition Authority

The European Commission (the ***Commission***) published, on 5 September 2024, a report on interim measures used by national competition authorities (***NCAs***) (the ***IM Report***). When Directive 2019/1 to make NCAs more effective competition law enforcers (the ***ECN+ Directive***) became law, the Commission promised to produce an analysis of ways to simplify the adoption of interim measures by NCAs. The resulting IM Report discusses the impact of the ECN+ Directive on the power of NCAs to impose national interim measures; the differences between the regulatory frameworks of the Member States in that regard; and the actual use of interim measures by NCAs.

In Belgium, the predecessor of the Belgian Competition Authority (*Belgische Mededingingsautoriteit / Autorité belge de la Concurrence* – the ***BCA***) was in 1991 one of the first competition authorities in Europe to be given the express power to adopt interim measures. The BCA now has the ability to impose such measures on its own initiative or at the request of a private party. For example, in April 2023, the BCA's chief prosecutor sought, of his own motion, interim "hold separate" measures in a case in which the BCA had challenged an acquisition under the abuse of dominance rules (*see*, this Newsletter, Volume 2023, No. 4). The IM Report discusses this case in some detail (at p. 14).

The IM Report shows that Belgium is part of a small group of Member States in which the substantive legal test for imposing interim measures is less stringent than that applying to the Commission itself and that is provided for by the ECN+ Directive, while the procedural requirements for adopting interim measures are less demanding than those governing proceedings on the merits. Additionally, and perhaps not coincidentally, as the IM Report suggests, Belgium ranks second (only outperformed by France) for the number of interim measures adopted in the European Competition Network during the 20-year period between 1 May 2004 and 1 June 2024.

Belgian Competition Authority Raids Bus and Coach Passenger Transport Sector in Suspected Cartel, Bid Rigging, and No-Poaching Case

On 11 September 2024, the Belgian Competition Authority (*Belgische Mededingingsautoriteit / Autorité belge de la Concurrence* – the ***BCA***) carried out unannounced inspections ("dawn raids") at the premises of companies active in the bus and coach passenger transport services sector. The BCA explained in a press release that the inspected companies are suspected of price fixing, market sharing, bid rigging, and/or no-poach agreements, which, if confirmed, would infringe Article IV.1 of the Code of Economic Law (*Wetboek van Economisch Recht / Code de droit économique*) and Article 101 of the Treaty on the Functioning of the European Union.

This is not the first time that the BCA has investigated bid rigging practices. As recently as this summer, the BCA adopted a settlement decision fining bid rigging practices in the private security sector, and concluded another settlement agreement with firms found guilty of bid rigging in the fire protection business (*see*, this Newsletter, Volume 2024, No. 6-7). The private security firms case was also the first one in which the BCA found a no-poaching arrangement to be contrary to the competition rules.

Unannounced inspections are carried out to gather evidence of a possible competition law infringement. The existence of an infringement is not established until the BCA adopts a final decision.

CONSUMER LAW

Royal Decrees and Ministerial Decree Implementing Law on Promoting Repair of Goods Published

On 4 September 2024, the Belgian Official Journal (*Belgisch Staatsblad / Moniteur belge*) published two Royal Decrees and a Ministerial Decree implementing the Law of 17 March 2024 on promoting the repairability and longevity of goods (*Wet van 17 maart 2024 ter bevordering van de herstelbaarheid en de levensduur van goederen / Loi du 17 mars 2024 sur la promotion de la réparabilité et de la durabilité des biens* - the ***Law***), i.e.:

- a Royal Decree of 25 May 2024 determining the goods covered by the repairability index, the technical standards for determining the scores for each of the criteria and the calculation method for the repairability index (*Koninklijk Besluit van 25 mei 2024 tot vaststelling van de goederen waarop de herstelbaarheidsindex betrekking heeft, de technische normen voor de vaststelling van de scores voor elk van de criteria en de berekeningsmethode voor de herstelbaarheidsindex / Arrêté royal du 25 mai 2024 visant à déterminer les biens visés par l'indice de réparabilité, les normes techniques permettant d'établir les scores pour chacun des critères et la méthode de calcul de l'indice de réparabilité*), available here;

- a Royal Decree of 3 June 2024 establishing the communication terms, the format of the repairability index, and the accessibility of the technical standards (*Koninklijk Besluit van 3 juni 2024 tot vaststelling van de communicatiemodaliteiten, het formaat van de herstelbaarheidsindex en de toegankelijkheid van de technische normen / Arrêté royal du 3 juin 2024 visant à déterminer les modalités de communication, de format de l'indice de réparabilité et d'accessibilité aux normes techniques*), available here;

- a Ministerial Decree of 12 July 2024 establishing the method of displaying the repairability index (*Ministerieel Besluit van 12 juli 2024 tot vaststelling van de wijze van affichering van de herstelbaarheidsindex / Arrêté ministériel du 12 juillet 2024 déterminant les modalités concernant l'affichage de l'indice de réparabilité*), available here.

Specifically, the following consumer goods will be assigned a repairability index starting on 2 May 2025: household dishwashers, vacuum cleaners, high-pressure cleaners, lawnmowers, portable computers, (electric) bicycles and electric scooters. The repairability index will not apply to goods designed exclusively for professional use or goods that will be covered by a separate longevity index.

The repairability index will be determined according to legally defined criteria and will be depicted using a colour-coded system.

For more information on the Law, we refer to the January 2024 and April 2024 issues of this Newsletter (*see*, this Newsletter, Volume 2024, No. 1 and this Newsletter, Volume 2024, No. 4).

DATA PROTECTION

Belgian Data Protection Authority Publishes Guidelines on Artificial Intelligence Systems and General Data Protection Regulation

The Belgian Data Protection Authority (*Gegevensbeschermingsautoriteit/Autorité de protection des données* – the ***DPA***) published on 19 September 2024 guidelines on artificial intelligence and the General Data Protection Regulation 679/2016 (***GDPR***) (the ***Guidelines***). The Guidelines provide an overview of relevant GDPR principles applicable to AI systems and explain how the AI Act builds on these principles.

The Data Protection Authority intends the Guidelines to be relevant for a diverse audience, including legal professionals, Data Protection Officers, and technical specialists such as analysts and developers. The Guidelines offer a useful tool for understanding how GDPR and AI Act requirements apply in combination to AI systems.

What is an AI System?

The Guidelines adopt the AI Act's definition of an "AI system" but explain it in simpler terms. They describe an AI system as *"a computer system specifically designed to analyse data, identify patterns, and use that knowledge to make informed decisions or predictions"*. Such systems often process personal data, necessitating compliance with both the GDPR and the AI Act. Based on various examples, the Guidelines explain that four criteria must be satisfied to qualify as an AI system: the system must be (i) machine-based; (ii) analyse data; (iii) identify patterns; and (iv) make or support decisions, or make recommendations. While AI systems may demonstrate 'adaptiveness', the Guidelines clarify that this characteristic does not constitute a strict requirement for AI system qualification.

GDPR & AI Act Requirements

The Guidelines discuss essential data protection principles relevant to AI systems throughout their development, deployment, and use. These principles encompass lawfulness, fairness, transparency, purpose limitation, data minimisation, accuracy, storage limitation, automatic decision-making, security of processing, data subject rights, and accountability.

The Guidelines emphasise that AI systems must comply with the GDPR's legal bases for data processing, with additional prohibitions introduced by the AI Act on specific AI systems. They stress the importance of mitigating bias and ensuring transparency, with varying requirements based on the AI system's risk level.

The Belgian Data Protection Authority clarifies that AI systems should adhere to purpose limitation and data minimisation principles, use high-quality and unbiased data, and comply with the GDPR's storage limitation requirements. The Guidelines also highlight the differences in automatic decision-making provisions between the GDPR and the AI Act, with the latter focusing on human oversight and responsible development.

Security considerations receive a broad interpretation, with the Guidelines recommending comprehensive risk assessment and continuous monitoring. The AI Act reinforces data subject rights and expands on the GDPR's accountability principle through measures such as a two-step risk management approach, detailed documentation requirements, and potential fundamental rights impact assessments (***FRIA***).

The full text of the Guidelines is available for consultation on the Data Protection Authority's website here. A more detailed analysis can be found in a VBB client alert here.

FOREIGN DIRECT INVESTMENT

First Annual Report on Belgian Foreign Direct Investment Screening Published

On 30 September 2024, the Federal Public Service Economy published its first annual report (the ***Report***) on the screening of foreign direct investments (***FDI***) and the operations of the Interfederal Screening Committee (*Interfederale Screeningscommissie / Comité de Filtrage Interfédéral* – the ***ISC***). The Report offers insights into the first year of implementation of the Belgian mechanism for the screening of FDI, which has been operational since 1 July 2023 (*see*, this Newsletter, Volume 2023, No. 5).

Smooth Process for Most

The Report shows that the procedure has run smoothly for most notifications with only few delays and, so far, no conditions or blocking decisions.

Between 1 July 2023 and 30 June 2024, the ISC handled 68 notifications. Of these, 53 were approved without any accompanying measures, while the remaining 15 files were still pending on 30 June 2024. As a result, no investments were blocked or made subject to measures during the first year of FDI screening.

The ISC also opened its first retroactive *ex officio* investigation but closed it without imposing any measures.

Interestingly, only five notifications gave rise to an in-depth screening phase. One of these was closed after 52 days, while the others were still pending on 30 June 2024.

The Report highlights the importance of filing a complete notification. In 44% of cases, the ISC accepted the filing on the same day or the day following submission. By contrast, 13 filings were not immediately accepted due to missing information, resulting in an overall average period of six days between submission and the ISC's acceptance of the filing. This finding points to a significant delay for filings initially regarded as incomplete.

In addition, most notifications were approved within the statutory time period of 30 days, without clock-stops. Only four notifications received requests for additional information during the notification process, resulting in an average processing time of 31 days from the acceptance of the filing.

Prevalence of US and UK Investors

The majority of the notified investments originated from the United States, accounting for 43.4% of the notifications, followed by the UK with 29%. Other investor countries of origin lag far behind, with Switzerland (4), India (3), Canada (2), China (2), Singapore (2), and Turkey (2) accounting for far fewer notifications.

Types of Notified Investments

The sectors targeted by the notifications were data (15.1%); healthcare (15.1%); digital infrastructure (11.6%); transport (10.5%); and electronic communications (8.1%).

While notifiable acquisitions range between investments conferring control and stakes of only 25%, or in some cases even 10%, of voting rights, the Report indicates that most notifications involved acquisitions of control. In fact, the lowest acquisition threshold of 10% of voting rights only gave rise to five notifications. In addition, most investments notified to the ISC are transactions in which the Belgian target forms part of a larger acquisition. Just over 23% of notified investments concerned transactions in which a Belgian entity was the principal target.

Additionally, 11 notifications concerned internal restructurings, of which nine did not result in a new ultimate beneficial owner. This raises the question of whether such notifications are meaningful from the perspective of controlling foreign investment in the Belgian economy.

FOREIGN DIRECT INVESTMENT

Outlook

The Report indicates that the Belgian stakeholder jurisdictions may start discussions about improving the current FDI screening mechanism. The Report also refers to the upcoming changes to the EU FDI Regulation (*see*, this Newsletter, Volume 2024, No. 1).

In addition, the ISC has indicated that it will continue exploring ways to optimise the practical operation of the screening mechanism with all stakeholders. The Report hints at improvements to the notification forms and the IT application for submitting notifications. In the meantime, the ISC has already implemented some of these changes. On 2 September 2024, the ISC published an updated version of its notification forms, which became mandatory for notifications on 1 October 2024 (*see*, this Newsletter, Volume 2024, No. 8). The ISC published these new versions of the forms after first consulting with specialist law firms, including Van Bael & Bellis. The ISC also implemented improvements to its IT application.

The Report is available here in Dutch, English and French.

INTELLECTUAL PROPERTY

Advocate General Court of Justice Rejects Applicability of Reciprocity Clause of Article 2(7) Berne Convention in Light of EU Law

On 5 September 2024, Advocate General Szpunar (***AG Szpunar***) handed down his opinion in response to a request for a preliminary ruling addressed to the Court of Justice of the European Union (the ***CJEU***) in the *Kwantum Nederland BV, Kwantum Belgie BV v. Vitra Collections AG* case (C-227/23). The case concerns the applicability of the reciprocity clause in Article 2(7) of the Berne Convention for the Protection of Literary and Artistic Works (the ***Berne Convention***) in light of Directive 2001/29 on the harmonisation of certain aspects of copyright and related rights in the information society (the ***Information Society Directive***).

Background of Case

The dispute involves Vitra Collections AG (***Vitra***), a firm that produces designer furniture, and which holds the copyright to the Dining Sidechair Wood (***DSW chair***), designed by a couple in the United States, and Kwantum Nederland BV and Kwantum Belgie BV (***Kwantum***) which sell a chair under the name 'Paris'. Vitra brought an action against Kwantum for allegedly infringing Vitra's copyright in the DSW chair. The central issue was the interpretation of Article 2(7) of the Berne Convention which allows states to refuse copyright protection for works from countries that do not offer an equivalent level of protection.

The case reached the Dutch Supreme Court (the ***Referring Court***) which decided to stay the proceedings and refer a preliminary question to the CJEU. The court inquired whether, in light of the relevant provisions of the Information Society Directive and Article 17(2) of the Charter of Fundamental Rights, Member States are free to apply the reciprocity clause contained in Article 2(7) of the Berne Convention to works of applied art. The Referring Court also requested clarification on the applicability of the first paragraph of Article 351 of the Treaty on the Functioning of the European Union (the ***TFEU***). This provision deals with the status of international agreements concluded by Member States before 1 January 1958.

AG Szpunar's Reasoning

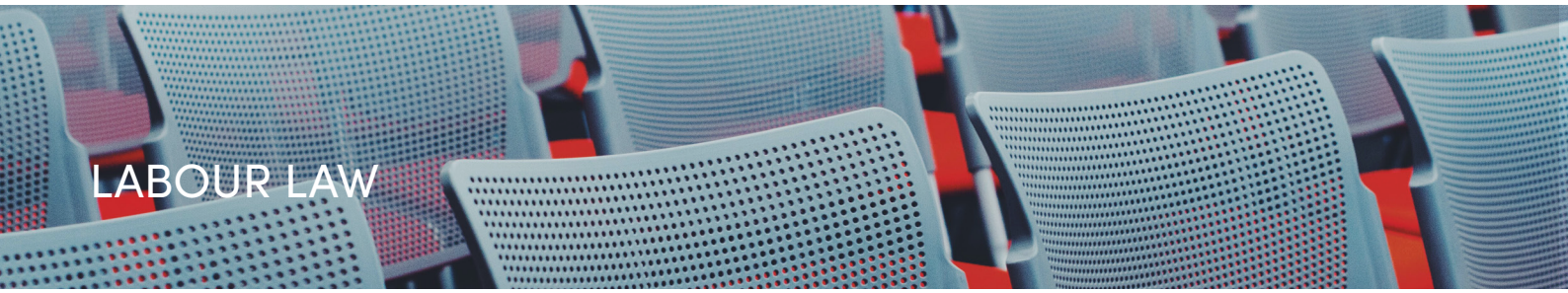
In his opinion, AG Szpunar concluded that the provisions of Articles 2(a) and 4 of the Information Society Directive prohibit Member States from applying the reciprocity clause laid down in Article 2(7) of the Berne Convention. As a result, copyright protection for works originating in third countries must be guaranteed without any condition of reciprocity. According to AG Szpunar, this approach is crucial to ensuring uniform copyright protection within the European Union.

AG Szpunar found that neither the Information Society Directive nor the case law on the concept of 'work' within the meaning of the Information Society Directive lay down a condition that their applicability should be limited to works originating in Member States or countries belonging to the European Economic Area. He thus concluded that the fact that a work originates from a third country is irrelevant for qualifying for the protection afforded under the Information Society Directive.

Furthermore, AG Szpunar noted that the underlying dispute concerns two private parties, notably Kwantum and Vitra. Although the Information Society Directive confers explicit rights on the authors of applied works of art originating in third countries, AG Szpunar pointed out that these rights cannot be directly invoked in a dispute between private parties, unless national law allows provisions to the contrary to be set aside. If that were not the case, the Referring Court would nonetheless be required to interpret its national law, in this case Article 2(7) of the Berne Convention, which is directly applicable in Dutch law, to ensure the maximum effectiveness of the Information Society Directive. National courts must therefore interpret their laws in a way that favours the protection of works, in particular by adopting rules that minimise the impact of the reciprocity clause.

INTELLECTUAL PROPERTY

Regarding the applicability of Article 351 TFEU, AG Szpunar suggested that a Member State cannot derogate from the provisions of European Union law by applying the reciprocity clause of the Berne Convention. This means that even if a Member State adhered to the Berne Convention before the Information Society Directive came into force, it must comply with EU standards, which advocate the unconditional protection of copyright.



LABOUR LAW

Minimum Return Guarantee for Occupational Pension Schemes Will Increase in 2025

The minimum return guarantee for contributions paid into defined contribition occupational pension schemes (***OPS***) will be increased from 1.75% to 2.50% on 1 January 2025.

Minimum Return Guarantee

According to the Law on occupational pension schemes (*Wet van 28 april 2003 betreffende de aanvullende pensioenen en het belastingstelsel van die pensioenen en van sommige aanvullende voordelen inzake sociale zekerheid / Loi du 28 avril 2003 relative aux pensions complémentaires et au régime fiscal de celles-ci et de certains avantages complémentaires en matière de sécurité sociale*), an employer must guarantee a minimum return on contributions made throughout an employee's affiliation with an OPS.

Since 2016, the minimum interest rate has changed from a fixed percentage to an annually adjustable rate. This rate is determined on the basis of the average 10-year return on Belgian linear ordinary bonds (***OLOs***) within a specified range of 1.75% to 3.75%. Since 2016, the rate has been consistently set at the lower end of this range, at 1.75%, considering low long-term interest rates. However, OLO rates have recently risen. As a result, the minimum return of an OPS will increase to 2.5% on 1 January 2025.

Consequence of Increase

As a result of this increase, employers will be required to provide a higher minimum return on future contributions into an OPS and, depending on the method used to calculate the return guarantee, on the accrued pension reserves. Specifically, if the insurance company or pension fund fails to achieve an average return of 2.50% starting on 1 January 2025, it may lead to a shortfall in the OPS minimum return guarantee for that period. In such an event, the employer will have to make an additional contribution to compensate for the underfunding.

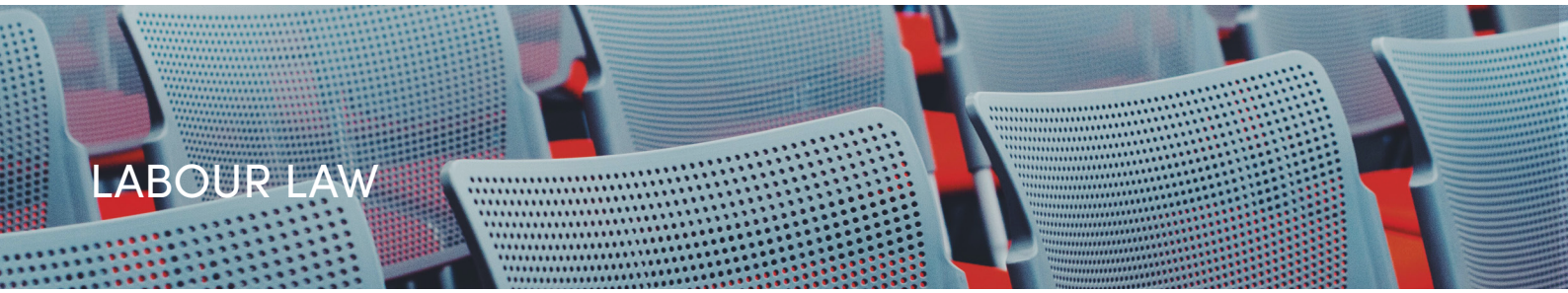
Employers should therefore take into account the new interest rate of the OPS minimum return guarantee when calculating their occupational pension liabilities and verify whether the pension institution responsible for managing their OPS will be able to fulfil the OPS return guarantee in future.

New Rules for Access to Labour Market in Brussels-Capital Region

Since 1 October 2024, new rules govern the applications for single permits/work permits and professional cards for non-European nationals working in the Brussels-Capital Region. These changes aim to streamline the application process and enhance legal certainty for individuals seeking employment or self-employment in the region.

The new framework is laid down in the Ordonnance of 1 February 2024 on economic migration (*Ordonnantie van 1 februari 2024 betreffende economische migratie / Ordonnance du 1 février 2024 relative à la migration économique*) and is detailed in the Decree of the Brussels-Capital Region Government of 16 May 2024 (*Besluit van de Brusselse Hoofdstedelijke Regering van 16 mei 2024 houdende uitvoering van de ordonnantie van 1 februari 2024 betreffende economische migratie / Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 16 mai 2024 portant exécution de l'ordonnance du 1er février 2024 relative à la migration économique* - the ***Decree***).

The specific documents required for permits for various categories of employees have now been detailed in the Ministerial Decree of 9 September 2024, published in the Belgian Official Journal of 13 September 2024 *(Ministerieel Besluit van 9 september 2024 tot vaststelling van de lijst van documenten met betrekking tot de toekennings- of vernieuwingsvoorwaarden van de toelatingen zoals bepaald in de Ordonnantie van 1 februari 2024 betreffende economische migratie / Arrêté Ministériel du 9 septembre 2024 fixant la liste*



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des documents relatifs aux conditions d'octroi ou de prorogation des autorisations fixées par l'ordonnance du 1er février 2024 relative à la migration économique).

New Application Requirements

The new rules largely concern a codification of the existing rules and practices in Brussels. However, a number of fresh requirements have been added as follows:

1. **Simplified calculation of salary thresholds**: The calculation of the minimum salary threshold which should be met for specific employee categories as a condition for employment in the Brussels-Capital Region now refers to a percentage of the average gross monthly salary in Brussels (currently EUR 4,604, updated every 1 January). Moreover, in order to calculate whether the salary threshold has been reached, fringe benefits should be excluded. The new method also eliminates distinctions between Belgian employment and secondments, simplifying the calculation to a unified monthly basis. However, there are different salary thresholds for specific employee categories based on a percentage of the average gross monthly salary in Brussels (*e.g.*, 140% or EUR 6,445.60 for executives, and 78% or EUR 3,591.12 for highly qualified personnel).

2. **Less formalities for single permits exceeding one year**: Employers must no longer provide documents on an annual basis for single permits exceeding one year. The necessary information will be collected through databases. The authorities nevertheless have the right to request additional information if they consider this necessary.

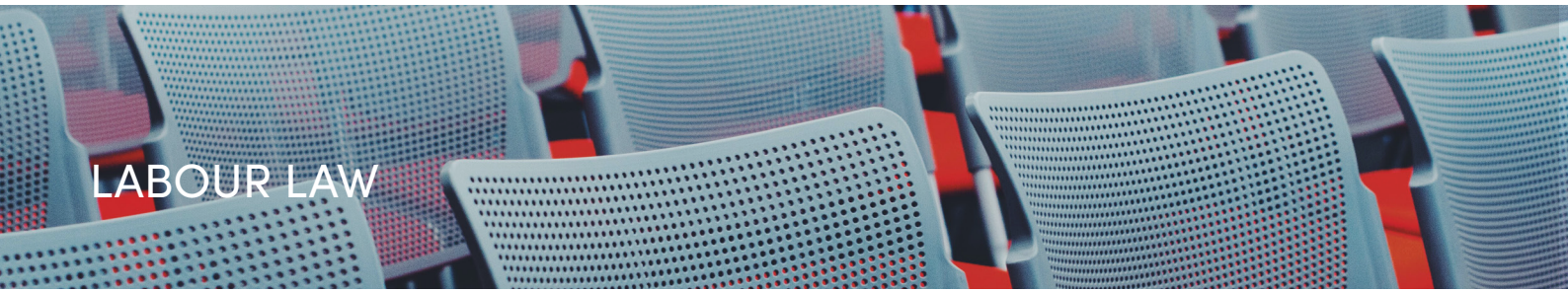
3. **Unlimited single permits**: After 30 months of residency and employment in Brussels, employees may qualify for an unlimited single permit. This period will be extended to 48 months if another region in the meantime issued a single permit for employment in Belgium.

4. **Implementation of the European Blue Card Directive**: The Decree further implements Directive 2021/1883 of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC (the ***European Blue Card Directive***) for the Brussels-Capital Region. This results in important changes for highly qualified personnel applying for a European blue card:

   - the minimum duration of the Belgian employment contract is reduced from at least one year to at least six months;
   - the minimum salary threshold is determined at 100% of the average gross monthly salary in the Brussels-Capital Region (currently EUR 4,604, updated each year on 1 January)[1] ;
   - professional experience can replace higher education qualification requirements in the field of information and communications technology;
   - in case of a change of employer within the first 12 months of holding a blue card, the Brussels-Capital Region can object within 30 days after receiving notification, if the conditions to hold a blue card are no longer met.

5. **Additional documents**: Specific categories of employees must provide additional documents to improve application assessments (*e.g.*, an organisational chart of the company for highly qualified personnel).

1 This amount applies to applications for a European blue card submitted from 1 October 2024, onwards. For applications submitted before this date and for European blue cards already issued, the old amount will continue to apply until 1 January 2025.



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No Significant Impact on Application Process

While the new rules seek to modernise the procedure, the application process remains mostly unchanged:

- single permits must be submitted via the online portal "Working in Belgium";
- professional cards are filed either through an accredited registration office or through the Belgian Embassy, depending on the applicant's location at the time of filing.

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