



OPENING UP SHOP

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Belgium is traditionally considered an open economy and a reliable socio-economic environment for foreign investment. Although providing interesting business opportunities, starting operations in Belgium will inevitably bring along challenges. Foreign investors will be confronted with unfamiliar Belgian employment and corporate law requirements. As is the case in other EU Member States, employment and corporate law in Belgium are governed primarily by national law. To successfully launch an

activity in Belgium, it is therefore crucial to get acquainted with the specificities of the Belgian system. The checklist below will guide you through some of the key legal requirements for opening up shop in Belgium.

Van Olmen & Wynant is an independent law firm offering quality services with a personal touch. A dedicated team of experienced, multilingual professionals serves business clients in employment and corporate law. Van Olmen

& Wynant values empathy, trust and long-term, personal relationships. Its size matters, because it allows the firm to combine professionalism with a personal and pragmatic touch. Based in Brussels, the firm enjoys outstanding international contacts and has developed close working relationships with high quality law firms across the globe.

I. LABOUR AND EMPLOYMENT REQUIREMENTS

A. EMPLOYER POLICY REQUIREMENTS

To be legally compliant, employers are legally required to create and implement a number of employment policies. In Belgium, a distinction should be made between the “Work Rules” which constitutes a mandatory document, and company policies, which are useful but not mandatory.

The “Work Rules” must include several mandatory provisions and procedures, which are applicable within the company, such as:

- working time schedules;
- rights and obligations of the supervisory personnel;
- declaration of intent and/or policy on alcohol and drug use;
- procedure on psychosocial risks at work, including sexual harassment and mobbing;
- disciplinary measures, penalties and the possible remedies available to the affected employees;
- the whereabouts of the person appointed to provide first aid and the whereabouts of the first aid kit, together with the names of doctors who can be contacted by the victim of a workplace accident.

Other internal policies are not mandatory, but could be useful to make clear arrangements on specific topics and manage employee relations. The following policies are often adopted by Belgian employers:

- a car policy;
- a policy on data protection.
- a policy on the use of e-mail, internet and social media;
- a policy on the use of a mobile phone, laptop, tablet;
- a whistleblower policy;
- a code of conduct;
- a diversity policy;

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B) EMPLOYEE TRAINING REQUIREMENTS

Firstly, an employer must spend the necessary time and resources in welcoming newly hired employees.

Secondly, an employer is liable for the well-being of his employees. In this context, an employer has certain responsibilities, for example:

- ensure that all employees are aware of possible safety and health policies or guidelines;
- if the workplace contains hazardous materials, employees must receive training on the handling of such materials;
- ensure that at least one employee is trained in first aid;

Finally, but only for employers employing at least 10 employees, Belgian law requires the entire private sector to provide, on average, 5 days of training per full time equivalent, per year, to be specified at industry level or company level. In case no such specifications are defined, the employee is entitled to 2 training days, on average, per year.

C) EMPLOYMENT AGREEMENTS

Several types of employment agreements exist, and can broadly be subdivided on the basis of:

1. the nature of the work performed;

Belgian law broadly distinguishes 5 types of employment agreements, i.e. for white-collar employees,

blue-collar employees, sales representatives, domestic servants and students.

2. the period for which the contract is entered into;

An open-ended employment agreement is the most common employment agreement used in Belgium. If not explicitly stipulated otherwise, every employment agreement is presumed to be for an indefinite term.

A fixed-term agreement automatically ends upon the expiry date of the agreement. Yet, if parties continue to perform the agreement after its expiry date, the employment agreement will be deemed to be an open-ended employment agreement. Furthermore, Belgian law limits the ability of parties entering into multiple consecutive fixed-term employment agreements.

An employment agreement for a specific project or a replacement agreement is also a type of fixed-term agreement. The employment agreement for a specific project will end on the date on which the project is completed, even though no specific time can be set. A replacement agreement may be entered into to replace an employee whose employment agreement has been suspended for reasons other than lack of work, the weather, a strike, or lock-out (eg. long-time illness, pregnancy, career break, etc.).

Another type of employment agreement is an employment agreement for the performance of temporary work. Such agreements

are used to address a temporary lack of personnel, manage a temporary increase in workload, or carry out an exceptional task.

3. the volume of work performed, i.e. full-time versus part-time agreements.

In principle, the standard employment agreement, namely the full-time open-ended employment agreement, may be written or verbal (however it is common practice and advisable to enter into a written agreement). Yet, all other employment agreements deviating from this standard, must be in writing. A number of these employment agreements, must also include a number of predetermined stipulations.

Van Olmen & Wynant has extensive experience in drafting employment agreements tailor-made to the specific needs of the function. We would be happy to assist you.



II. CORPORATE LAW REQUIREMENTS

To incorporate a company in Belgium, there are a number of steps and requirements that are needed to ensure legal compliance, as listed below:

- decide whether to establish a subsidiary (legal personality) or a branch (no distinct legal personality);
- in case of the establishment of a subsidiary: define the capital structure of the company and choose a form for your company. The most common forms are the Company Limited by Shares (NV/SA) and the Private Limited Liability Company (BVBA/SPRL);
- prepare an incorporation deed (including the articles of association) with the public notary;
- deposit of (at least) the paid-up capital with a Belgian credit institution and obtain a standard certification that the amount is held in a blocked “capital” account;
- deposit of a two-year preliminary financial plan with the public notary;
- decide who will be the directors/managers of the company;
- registration of the deed of incorporation with the Commercial Court;
- registration with the Crossroads Bank for Enterprises, VAT and social security at a Business-One-Stop Shop in order to obtain a company number;
- the Business-One-Stop Shop will also take care of the application for a VAT number;
- registration of trademarks or other intellectual property rights, if applicable.



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III. PAYROLL AND BENEFITS PROVIDERS

The vast majority of employers in Belgium use the services of a pay roll company to manage all pay roll-related issues. The pay roll company acts as an intermediary between the employer and the social security and income tax authorities.

We would be happy to put you in contact with a pay roll company to fit your business requirements.

We are pleased to offer our services for all of the required work identified above and assist your organisation to open up shop in Belgium. Any portion of the work can be conducted on

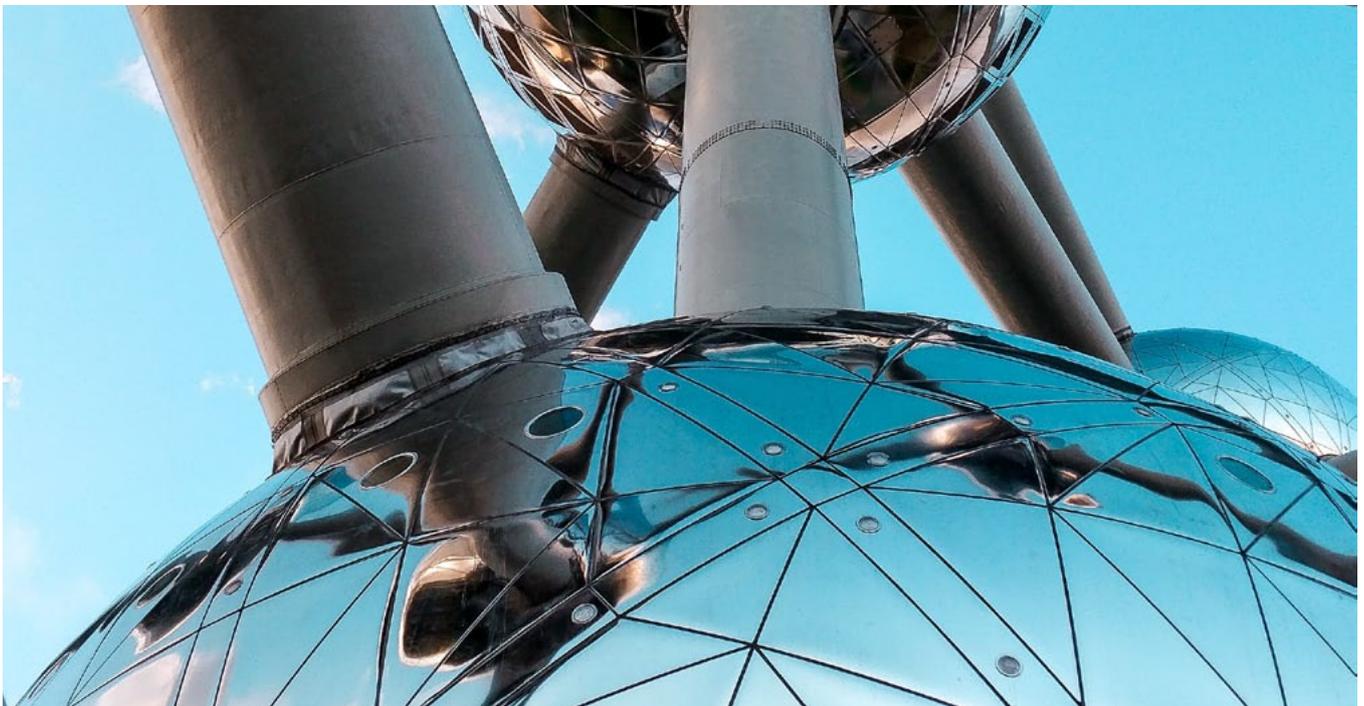
the basis of a blended rate of 290 EUR per hour in addition to any required disbursements and tax.

If you have any questions, please contact

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We look forward to working with you.



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