

Belgium's constitutional court decided that as of July 8th 2013 the then existing differentiation between blue collar and white collar workers in the field of notice of termination periods was unconstitutional. To avoid chaos and a legal quagmire, Belgian employment law had to be adapted.

The Statute of December 24th 2013 respecting the harmonization of applicable laws on blue and white collar workers rewrites dramatically one of the more important chapters of employment law.

As of January 1st 2014 the calculation of the reasonable notice period is made in 2 steps:

- In a first step the notice period must be calculated on December 31st 2013 under the old termination rules with however one exception: for white collar workers earning more than 32.254 EUR per annum the notice period is equal to one month per commenced year of length of service, with a minimum of 3 months;
- In a second step a new length of service or seniority has to be calculated as of from January 1st 2014 that will lead to an additional notice period of :
  - Two weeks if less than three months' seniority (after December 31st 2013);
  - Four weeks if more than three months and less than six months' seniority ;
  - Six weeks in case of a seniority between six months and less than nine months;
  - Seven weeks if between nine months and less than twelve months' seniority;
  - Eight weeks if between twelve months and less than fifteen months' seniority;

- Nine weeks if between fifteen months and less than eighteen months of seniority;
- Ten weeks if between eighteen months and less than twenty-one months' seniority;
- Eleven weeks if between twenty-one months and less than twenty-four months of seniority;
- Twelve weeks if between two years and less than three years seniority ;
- Thirteen weeks if between three years and less than four years' service ;
- Fifteen weeks if between four years and less than five years of seniority ;
- From five years of service, the notice to be served will be further built up with an additional three weeks per year of commenced seniority.
- From twenty years of service, the notice will be further built up with an additional two weeks per year of commenced seniority.
- From twenty one years of service, the notice to be served will be further built with one week per year of commenced seniority
- If no notice period or insufficient notice has been notified when terminating the employment contract, the salary including all perks (13th month, holiday pay, benefits in kind, company cars, etc) must be paid over the (remaining) notice period.

Examples given:

 A white collar worker making 52.000 EUR per annum has been hired on May 15th 2013 and is to be terminated on February 25. His notice period on December 31st 2013 is 3 months. His notice period for the period after January 1st 2014 is 2 weeks. The white collar worker is entitled to a total of 15 weeks notice. If the employer choses to terminate his contract with immediate effect, the white collar worker will be entitled to 15.000 EUR termination indemnity (=  $52.000/52 \times 15$ ).

2. A white collar worker is making more than 32.254 EUR per annum and was hired on January 1st 1979. He is now 63 years old and must be terminated by serving notice of termination effective March 1st 2013. His notice period on December 31st 2013 is equal to 36 months and 2 weeks or a total of 158 weeks.

Conclusion:

The differentiated treatment of blue and white collar workers continues to exist for employment up to December 31st 2013. Only respecting employment as of January 1st 2014 will there be equal treatment. This means that inequality between blue and white collar workers will continue exist until the existing generation of workers will have completely retired.



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