

LEGAL UPDATE

SER Employment Market Opinion

Date: 22 June 2021

Last Friday, 18 June, the [Draft Opinion on Socio-Economic Policy 2021-2025](#), which had been presented by the Social and Economic Council (SER) on 2 June 2021, was adopted by the SER council meeting. Drafted jointly by employer and employee organisations, the opinion proposes measures to reform the employment market. It comprises an all-round package of measures with both benefits and drawbacks for employers.

Temporary contracts

To eliminate uncertainty about temporary contracts, a maximum of three temporary contracts may be concluded within the space of three years. The six-month interruption period will be scrapped, meaning that a “permanent temporary” position with the same employer will no longer be allowed. Exceptions will apply to schoolchildren and students as well as for seasonal work.

On-call work

On-call work will be scrapped, thus creating a proper balance between the minimum number of hours to be worked and the availability of the worker. On-call contracts will be replaced by contracts with a fixed number of hours per quarter. Employees in this category will therefore have a predictable wage. Exceptions will again apply to schoolchildren and students.

Temporary employment

To prevent agency work from being used to cut employment costs or avoid employment law risks, agency workers will be given the right to the same terms and conditions of employment as those that apply at the hirer itself. Agency work will also be subject to a maximum of three years.

Self-employed workers

The tax deduction enjoyed by self-employed workers will be phased out to counteract the use of sham constructions and to improve the position of genuine self-employed workers. Self-employed individuals will also be required to have disability insurance to prevent unfair competition and excessive income risks. In addition, self-employed workers who earn less than EUR 30 to EUR 35 per hour will be legally presumed to be employees. It will then be up to the client to rebut this legal presumption.

Encouraging sustainable employment relationships

Finally, concluding open-ended employment contracts will be encouraged. For example, employers will be (temporarily) allowed to unilaterally reduce working hours for all employees by up to 20 percent if the economic circumstances are such that they would otherwise be dismissed. In that case, the employer would have to continue to pay full wages, but it would get back 75% of them from a government compensation scheme for as long as the reduced working hours apply. It is not known whether this wage will be capped at the maximum daily wage.

Also, in the event of impending dismissal, the employer and employee may choose to terminate the employment contract along with a job replacement procedure. The transition payment need not be made in that case.

VAN BENTHEM & KEULEN

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We must now wait and see what the politicians in The Hague make of this and to what extent the proposed measures are adopted in the coalition agreement. We will keep you up to date.

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