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> Newsflash – 27 June 2007

Employment, Social Security and Immigration Law

Too short to be good: LIMOSA and exemption from keeping social documents

On 1 April, the LIMOSA project finally came into force. LIMOSA implies that every foreign worker temporarily and/or partially performing professional activities in Belgium has to be registered (by online declaration) with the Belgian social security authorities before they start working in Belgium.

A benefit of the LIMOSA declaration is the exemption from drafting and keeping Belgian employment documents for the declared workers. The Royal Decree of 1 April 2007 determines the duration of the exemption period at 12 months. More specifically, it concerns the drafting and keeping of the work regulations, the personnel register, the documents regarding part-time employment, the monthly pay slip and the individual account. For the last two documents the exemption only applies on condition that similar documents have been drafted and are kept abroad.

However, there was a lack of clarity in the way this exemption from keeping Belgian employment documents is to be interpreted. Two possible interpretations were put forward:

1. The period of exemption of 12 months applies per individual worker, whereby the employer concerned is exempted from keeping employment documents for every individual worker for a period of 12 months as of the commencement of the individual worker's employment.
2. The period of exemption of 12 months is linked to the place of work (site/user) where the declared workers perform their activities. The period of exemption for employment documents commences, according to this interpretation, at the moment the first foreign worker is employed and ends 12 months later.

The above-mentioned lack of clarity seems to have been put to rest as a result of the fact that the Social Security Investigation Services have now clarified that the second interpretation is to be followed. Therefore, the employer will be exempted from keeping employment documents per workplace (site/user) and not per worker, which considerably lessens the use of the exemption.

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