

## **Belgium's social inspection services on a mission to check observance with working from home rules**

Article By:

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In a previous blog we noted that [as of November 2020, Belgium would again be in semi-lockdown and that one of the measures re-imposed was the obligation to work from home, unless this is realistically impossible](#). Employees whose work requires them to go the office need a confirmatory certificate from their employer attesting to this need. An employer allowing an employee to attend the workplace without that certificate commits an offence.

Despite these measures, the Corona numbers did not go down significantly in November and December. A quick look at the busy roads in the mornings suggested that continued attendance at the workplace was to blame for a good part of the spreading. It was clear from the density of the rush-hour traffic that employers and employees were just not obeying the “work from home” rules nearly as strictly as they had during the first lockdown. A closer monitoring by the state's workplace inspection services was therefore announced in December 2020.

Yesterday, it was confirmed that the Government means business in this respect: during the month of January, at least 500 inspectors attached to the Ministry of Employment will be checking for observance of the rules: is the employee's presence in the office strictly required; if not, why is he/she there anyway; and if so, does he/she have the necessary certificate? The inspectors have the right to visit unannounced, demand access to premises, search attendance records and talk to employees present.

In January, the inspectors will focus mainly on the services sector, while as of February they will expand their remit to other industries as well.

If the inspectors find employers to be in breach of the WFH rules, they may impose a criminal fine of 800 to 8.000 EUR or (much more likely) an administrative fine of 400 to 4.000 EUR. Depending on any mitigating circumstances – perhaps the uncertified employee is there on the day for an unexpected emergency or some compassionate reason or as a one-off to collect papers or equipment necessary for continued working from home, etc. — the employer may also get away with a stern warning and perhaps a follow-up visit. The employer's actual knowledge of the employees' presence in the office is not relevant, as employers are required to give the necessary instructions and monitor observance of these instructions.

An action point for today will be to check which of your employees is still coming to the office, whether their job really requires them to be there (or whether it's just the peace and quiet or brief respite from from childcare that lures them in) and gently send them home if that is where they should be working. You may find it worth checking any electronic attendance record (swipe cards, etc.) to see if there are any repeat uncertificated attendees you may have missed. It may be that they can show you that while they have done their best, working from home is sufficiently impracticable in their particular circumstances that you ought to be issuing them with the certificate so that they can come in legitimately going forwards. If you do find that any material number of people are sneaking into the office without that formal consent, it would probably also be wise to issue a written reminder to all staff of their obligations in that respect.

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