

PHASE I: PREPARATORY PHASE

COVID-19 first possible Election Day November 16, 2020	December 13, 2019	December 13, 2019 to January 7, 2020
COVID-19 last possible Election Day November 29, 2020	December 26, 2019	December 26, 2019 to January 20, 2020
Description	Start up of the election procedure by the employer. The personnel is informed amongst others of the following elements: → The determination of the TBU → The number of employees → The number of white collar employees → The number of blue collar employees → The number of middle management employees → The number of upper management employees	Negotiations regarding the elements that were communicated on day X-60
Day	X-60 (5 months before the election Day)	X-60 to X-35

January 7, 2020	January 12, 2020	February 11, 2020
January 20, 2020	January 25, 2020	February 24, 2020
The employer decides on the elements that were negotiated in the previous phase	Start of the protection from dismissal period of the candidates (a.k.a. the 'occult period') X-30	The employer informs the personnel of the following: → The date of the elections → The determination of the TBU → The number of mandates in the Works Council and in the Committee for Prevention and Protection at Work → The provisional election lists → The lists with the middle and upper management
X-35	X-30	X

PHASE II: POSTING PHASE

March 17, 2020	Suspension of the election procedure due to the COVID-19 outbreak	August 18, 2020 to November 6, 2020	November 16, 2020	November 18, 2020	December 31, 2020
March 30, 2020		August 31, 2020 to November 19, 2020	November 29, 2020	December 1, 2020	January 13, 2021
Final date for filing the lists of candidates		Actual organization of the elections (installing the voting bureaus, enabling electronic voting, voting by letter...)	Election day	Promulgation of the results of the elections	Final date that the newly elected Works Council / Committee for Prevention and Protection at Work must hold their first meeting.
X+35		X (Post COVID-19) to X+80	Y	Y+2	Y+45

PHASE III: ELECTION PHASE

- K law can draft the required information, take care of posting, and deliver the appropriate documents to act in accordance with Belgian legislation.
- K law can assist you during the preparatory, posting, and the election phase and can help you answer questions or concerns employees may have.
- K law can represent you before the Employment (Appeal) Court if disputes arise during the social elections or as a result of the social elections.

III. Calendar: the election procedure

- The social election procedure takes place following a statutory procedure which is confirmed or renewed every four (4) years by Royal Decree, in accordance with the above steps.

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Manual to
the 2020
Social
Elections
in Belgium

klaw.be

This manual is aimed at employers:

- with a headcount of around 50 employees; or
 - looking for extra staff; or
 - planning an acquisition in the near future
- or
- considering a restructuring of their company

This manual provides concise and easy-to-use guidance on how to approach the 2020/2021 Social Elections in Belgium.

With the election day set between May 11 and May 24, 2020 (due to the COVID-19 outbreak the election procedure is suspended as of X+36 and the new election day will be set between **November 16, 2020 and November 29, 2020**), employers obligated to organize social elections had to initiate the procedure to do so at the latest in the period between December 13 and December 26, 2019.

I. Why Social Elections?

In 2020/2021, certain employers must organize social elections amongst their employees. But what does this obligation actually mean?

A. Who must organize social elections?

1. If the average employee headcount in the company from October 1, 2018 until September 30, 2019 is at least fifty (50) the employer is obliged to organize social elections.
2. The threshold of fifty (50) employees is met when it is reached in at least one of the employer's separate Belgian 'Technical Business Units' (hereinafter: 'TBU').
3. ATBU is every legal unit, or a conglomerate of legal units, of the business with a certain degree of social and economical cohesion.

B. Who elects who and what is at stake?

4. The employees elect, amongst their eligible colleagues, who will represent the work force in the social negotiation bodies i.e.:
 - a. the Works Council (social elections as from an average of 100 employees), and/or,
 - b. the Committee for Prevention and Protection at Work (social elections as from an average of 50 employees).

II. What is the issue?

A. Why is it important to prepare for the social elections?

5. Social elections is an obligation that demands the necessary attention, mainly because of four reasons:
 - a. The candidates for the election – whether elected or not – benefit from an important protection against dismissal starting at the moment of their candidature. This moment begins 65 days before the names of the candidates are disclosed to the employer.
 - b. Should the rules regarding social elections not be complied with, the employees can file a (appeal) petition with the Employment (Appeal) Court that the procedure is started over until it is fully complied with.
 - c. Non-compliance with the social elections regulations is sanctionable by law. Additionally, administrative fines may apply.
 - d. The employer must initiate social elections after successfully assessing the applicable TBU(s). Furthermore the headcount must be evaluated per TBU.

B. Can the employer avoid the obligation to organize social elections?

6. If the conditions are met, the employer cannot avoid the obligation to organize social elections.

C. How can K law help?

7. K law can help you assess whether or not you need to organize social elections, at what level(s) and for which social negotiation bodies.
8. K law can help you successfully prepare (for) your social elections in a timely manner, i.e. before December 2019.

