

STAFF REPRESENTATIVES: MANDATORY ELECTIONS OF THE STAFF DELEGATION IN 2024

The next elections of the staff delegates will take place on 12 March 2024. Are you concerned by these elections? What actions will you need to take? It is now time to assess your obligations with regard to the elections of the staff delegation and get ready.

WHAT IS THE STAFF DELEGATION?

The staff delegation is an employee representative body whose general mission is to safeguard and defend the interests of the employees in terms of working conditions, job security and social status. The staff delegation has a broad range of statutory duties, rights and remit, including the right to be involved in certain decisions, measures or aspects of the organization.

In accordance with the Labour Code, the staff delegates are elected at the level of the "undertaking" (which, in most cases, will coincide with the company)¹, by the employees of the undertaking, among its employees².

WHEN IS THE STAFF DELEGATION ELECTED?

Elections of the staff delegations take place every five years on a date determined by the Labour Minister. By ministerial order dated 13 October 2023, the next elections day was set for 12 March 2024³.

DO I NEED TO ORGANISE THE ELECTIONS?

Any undertaking, regardless of the nature of its activities, legal form or business sector, which has continuously employed at least 15 employees during the period from 1 February 2023 to 31 January 2024 must organise the elections⁴.

All the employees of the undertaking and those who are put at its disposal (including temporary workers) are taken into account. Specific rules apply to

Key points:

- The elections of the staff delegations will take place on 12 March 2024.
- Undertakings which continuously employed at least 15 employees from 1 February 2023 to 31 January 2024 must organise the elections.
- Specific electoral operations must be complied with, on specific dates. The Labour Inspectorate has published a projected timetable of the key dates for these different operations.

¹ There is no statutory definition of "undertaking". It is however admitted that, in rare situations, certain large companies may include several undertakings, just as several companies may together form an undertaking, depending on the degree of imbrication or autonomy of the companies and their activities.

² Specific conditions for being a voter and for being elected apply.

³ Elections may need to be organised on another date for undertakings reaching the threshold of 15 employees continuously employed during 12 consecutive months on a date other than this one.

⁴ As an exception, no election will take place if the current staff delegation is in place since less than one year. Its mandate will be extended until the next staff delegates elections.

compute employees under a fixed term contract and those put at the disposal of the undertaking, as well as part-time employees.

WHAT ARE THE ELECTORAL OPERATIONS?

Staff delegation elections are preceded by a strict, formal procedure which must be complied with (notably to avoid the risk of the elections being invalidated). This procedure consists of a number of operations, as set out below, which must take place on specific dates.

The Labour Inspectorate has recently published a projected timetable of the key dates for these different operations, which are indicated below for undertakings operating from Monday to Friday or on a continuous basis.

Thursday 1 February 2024 (first day of the month of the display announcing the day of the elections):

- computation by the head of the undertaking of the workforce to determine the number of delegates to elect



Friday 9 February 2024 (at least one month before election day):

- display in the undertaking of the notice announcing the elections (specific information and mentions are required)
- if the undertaking decides to allow postal voting for absent employees, 9 February 2024 will be the last day for submitting the required request to the Labour Ministry



Monday 19 February 2024 (three weeks before election day):

- submission by the head of the undertaking of the alphabetical lists of employees meeting the conditions to be elected and to vote, for consultation purposes
- display of a notice informing employees that contestations against these alphabetical lists may be filed with the head of the undertaking (and sent, for information, to the Labour Inspectorate) within three working days, i.e. from 20 February to 22 February 2024
- communication to the Labour Inspectorate, through the electronic platform MyGuichet, of the notices announcing the elections and related to possible contestations against the alphabetical lists



Monday 26 February 2024 at 6 pm (at the latest on the fifteenth calendar day preceding the one of the elections at 6 pm):

- last day and time for the submission by employees of their candidature to the staff delegation - if the number of candidates is insufficient, the period for submitting candidatures is extended by 3 days
- If the election is conducted in accordance with the proportional representation system, final date for application to the director of the Labour Inspectorate for a serial number for the lists of candidates

**Friday 1 March 2024 (at the latest, the tenth day before the elections):**

- in case of postal voting, last day for the sending (by registered letter) of the voting slips to employees concerned, with an instructions' notice for the elections

**Wednesday 6 March 2024 (at the latest, four working days before the elections):**

- registration by the head of the undertaking of the candidates via MyGuichet

**From Friday 1 March 2024 to Monday 11 March 2024 (with postal voting) / From Thursday 7 March 2024 to Monday 11 March 2024 (without postal voting):**

- display of the list of the candidates with instructions for the elections

**Tuesday 12 March 2024 – Elections Day**

- setting up the polling station
- counting of votes
- drawing up of the minutes of the ballot and communication by the head of the undertaking of the minutes to the Labour Inspectorate via MyGuichet

**From Wednesday 13 March to Friday 15 March 2024 (during the three days following the elections):**

- display of the result of the elections



From Saturday 16 March to Tuesday 2 April 2024 (within fifteen days following the last day of display of the result of the elections⁵):

- period for the filing of contestations with the Labour Inspectorate concerning the electorate and the regularity of the electoral operations



From Wednesday 3 April 2024 (not before the expiration of fifteen days after the last day of display of the result of the elections):

- Inauguration of the delegation (in case of a contestation, this date is postponed until the issuance of the decision of the Director of the Labour Inspectorate)



No later than Friday 12 April 2024 (within the month following the elections):

- Convening, by the employee who obtained the largest number of votes, of the constituent meeting of the delegation



Within three days following the constituent meeting:

- Communication by the president of the delegation to the head of the undertaking of the name and national registration numbers of the president, the vice-president, the secretary, the equality delegate, the health and safety delegate and the members of the delegation board – this information must be provided by the head of the undertaking to the Labour Inspectorate, using MyGuichet, within five days



Within five days following the constituent meeting:

- Communication by the head of the undertaking to the Labour Inspectorate of the minutes of the constituent meeting via MyGuichet

Please note that this timetable may need adaptations to be assessed on a case-by-case analysis. In addition, all these actions require compliance with specific rules, notably with regard to formalism.

⁵ Since the end of this fifteen days period falls on Sunday 30 March 2024 and 1 April 2024 is a public holiday, the contestation period is extended until Tuesday 2 April 2024.

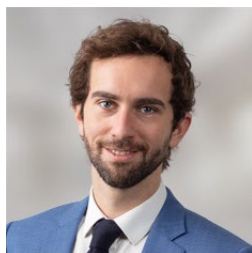
Our team of experts is at your disposal to assist you with any question you may have regarding the staff delegation and the election procedure.

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