

Caution with the Models of the “Commission de Bons Offices” when Employing Local Staff in Belgium as a Diplomatic Mission

October 17, 2017

The Good Offices Commission, better known under its French name “*Commission de Bons Offices*”, has developed [model work rules](#) and a [model employment agreement](#) for local staff of diplomatic missions. Although both the Commission and the Protocol Directorate have been recommending the use of these models, they are not necessarily in the best interest of a diplomatic mission.

Almost all embassies and other diplomatic missions employ local staff in Belgium. This local staff is hired under Belgian law and is subject to Belgian taxes and social security contributions (see Articles 33 and 37 of the [Vienna Convention on Diplomatic Relations](#) as well as Belgian Protocol Directorate’s [Circular Note of 15 May 2007](#)). As an employer of local staff in Belgium, a diplomatic mission is obliged to have work rules, a set of rules containing certain modalities of the employment relation that apply to all (locally hired) employees (e.g. modalities of overtime, public holidays, sick leave, etc.). On 9 December 2015, a [Royal Decree](#) was adopted providing for a specific procedure for diplomatic missions and consular posts to install work rules.

On [16 November 2016](#), the Good Offices Commission communicated the model work rules it developed to diplomatic missions with the “strong recommendation” to make use of this model when adopting work rules. The Commission was [created in 2013](#) by the Belgian authorities and was tasked with “proposing opinions intended to reach an amicable settlement” of disputes between local staff members and sending States, and “issuing proposals designed to improve working conditions” of local staff. The Commission has successfully improved the cooperation between the different Belgian Ministries (Employment, Social Security, Foreign Affairs, etc.) and has been successful in finding practical solutions to complex legal issues. However, the model work rules and especially the model employment agreement developed by the Commission are not in the best interest of diplomatic missions.

The Commission’s models go beyond what is legally required and can have a substantial financial and organizational impact on a diplomatic mission when used. The model work rules contain provision which do not need to be included (e.g. the right to information or the right to join a trade union) and lack provisions which offer additional flexibility to the mission as an employer. The model employment agreement even goes a step further. Some of the provisions proposed in the model will render the employment in Belgium significantly more costly than necessary, others are legally disputable or may result in problems of interpretation (e.g. the applicability of the regulatory framework of business sector committee 200 or “*commission paritaire 200*” which has substantial financial implications).

In summary, while the Commission has done excellent work in mediating individual disputes and bringing together the different actors around the table, the Commission's model work rules and model employment agreement should be treated with caution. It is important to know that the models recommended by the Commission are not mandatory. At all times, diplomatic missions are advised to verify – where appropriate with the assistance of legal counsel – that their specific interests and current way of operating are not at risk, since blindly following the Commission's recommendations may have a substantial financial impact and may impede their functioning.