



Employment, Pensions & Benefits



LEGAL
INSIGHT.
BUSINESS
INSTINCT.

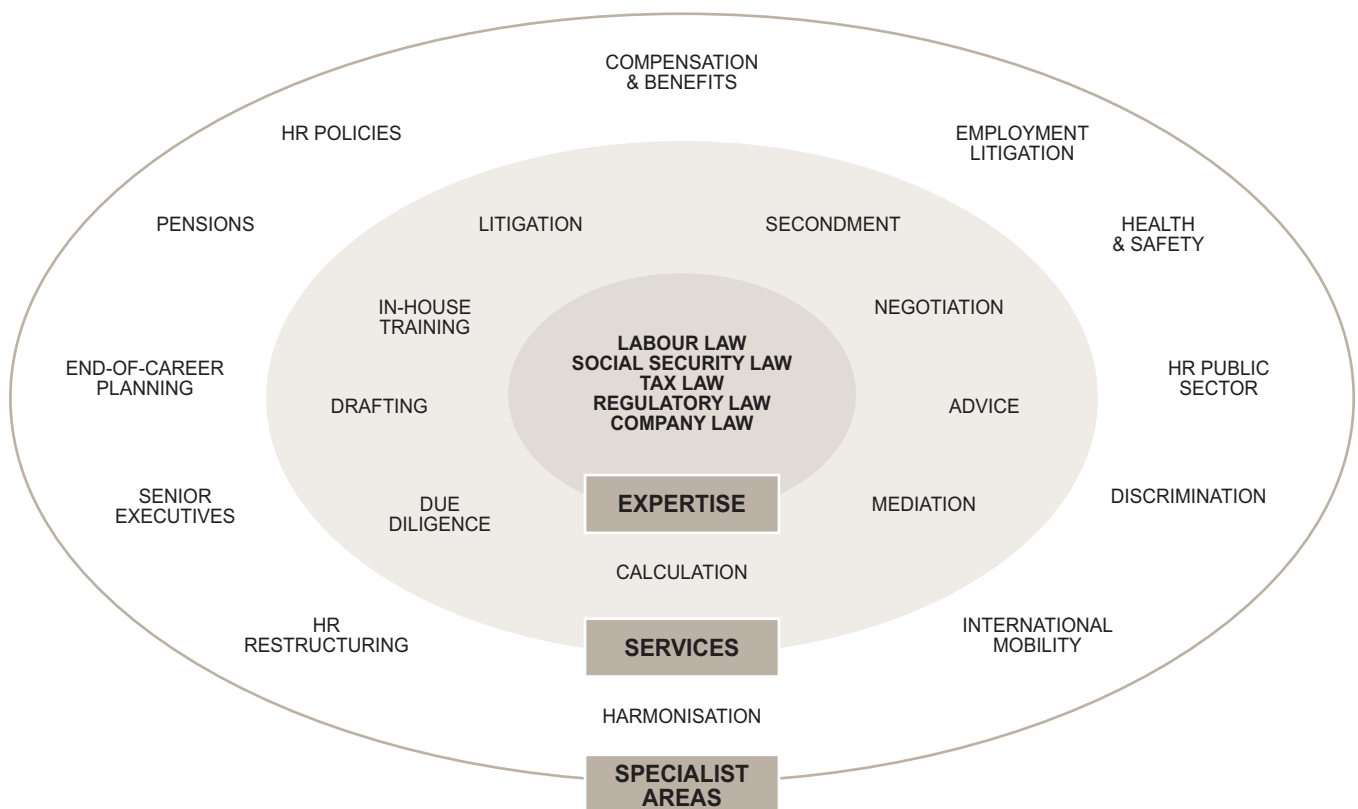


"Lydian's main priority is the business needs of the client. It never simply says something can't be done, but instead adopts a very solution-oriented attitude. A very polished service."

(Chambers 2012)

A COMPREHENSIVE, EFFICIENT APPROACH

Employment law issues are extremely diverse and require expertise in many areas of practice. The size of Lydian's employment team not only enables us to offer you a full range of services and support but also makes sure that your question is being handled by a specialist who is dedicated to the specific specialist practice area you need.



THE FULL SCOPE OF LYDIAN'S SERVICES

We have in-depth expertise in the following matters:

- Compensation & Benefits / Employee Incentive Schemes
- Employment litigation
- Health & Safety
- HR Public Sector
- HR Restructuring
- International mobility
- Labour law Advisory
- Pensions
- Senior Executives
- Privacy at work

COMPENSATION & BENEFITS / EMPLOYEE INCENTIVE SCHEMES

Retaining and motivating employees is a key concern to any organization. It is not only about creating the best working environment; offering a tailored remuneration package in the most cost efficient way is crucial in challenging times.

We advise on and help set up the full range of short and long-term incentive plans, “new age benefits” and other alternative remuneration tools. Our experience has given us a thorough understanding of the tax, corporate, employment and implementation issues surrounding such schemes or arrangements. Our proactive analysis of market practice means we have real insight into and an up-to-date knowledge of current reward trends.

EMPLOYMENT LITIGATION

We deal with a wide range of disputes and dispute resolution processes.

We frequently deal with claims of constructive dismissal and claims for severance pay, and other claims arising from employment legislation such as unlawful deductions from wages, violation of working time restrictions and holiday pay. We also have experience in advising on complex discrimination cases. In addition to discrimination claims, we also have substantial know-how with respect to advising on collective claims arising out of redundancies and TUPE.

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HEALTH & SAFETY

Employers have a legal duty to protect the employees' health and safety at work.

Lydian devises codes of best practices for employers enabling them to provide their employees with a safe working environment. We help companies to comply with health and safety regulations, assist them with drafting and implementing health policies (covering, for instance alcohol and drugs at work, stress, bullying, harassment, etc.) and advise them on health-related issues such as absenteeism, medical compliance, responsibility in case of damage/accidents, and the legal position of the so-called prevention counsellors.

We provide support to external health services with regard to the legal position of their prevention counsellors, responsibility in the event of damage/accidents, medical compliance, and screening of collaboration relationships with companies.

HR PUBLIC SECTOR

Human capital is one of the main assets of the public service. In the continued pursuit of improved and more efficient services, the recruitment, management and assessment of an ever more qualified workforce is key to the success of the work of any public body or agency.

Thanks to the shared knowledge built-up by our public law and employment law practices, we are one of the leaders in public sector employment law on the Belgian market, combining in-depth knowledge of current practice with widely recognized academic skills and credentials.

We help local and Federal governments by assisting them in drafting, revising and negotiating their civil servants' and contractual workers' administrative and pecuniary statutes and regulations.

We advise public employers on adapting the legal position of their workforce following decentralization, restructuring, outsourcing or job pooling.

We also offer them a wide range of legal HRM services (covering areas such as recruitment, promotion, disciplinary measures, leave, use of languages, pensions, etc.).

Finally, we assist several public bodies and agencies in finding HRM solutions when entering into joint ventures, concession contracts, PPP/PFI projects, etc.

HR RESTRUCTURING

Our team has earned itself a solid reputation for handling the labour law aspects of company restructuring operations, including transfers of undertakings (TUPE), outsourcing, collective dismissals, business closures and restructurings under the Belgian Chapter 11-like proceedings. We frequently coordinate European restructuring projects in several countries.

Our experts advise on:

- drawing up and negotiating social plans;
- drafting collective labour agreements;
- all formalities relating to collective dismissal proceedings (notifications to the authorities and communication to employees' representatives);
- information and consultation with (Belgian and European) works councils, trade union delegations and health and safety at work committees
- managing social conflicts;
- early retirement arrangements.

INTERNATIONAL MOBILITY

International migration of highly skilled workers is on the rise, in several forms and for diverse reasons. Some employees intend to settle permanently in the host country, others migrate on a temporary basis either for short periods of a few days (business trips), for longer periods extending to several months or years or for short periods at frequent intervals. Some employees are transferred within multinational companies (intra-company transferees), others within the framework of an international project. A final category concerns those employees who work in two, most often neighbouring countries at the same time (so-called split employment).

We advise on the whole range of issues related to international mobility, including:

- providing assistance with all administrative formalities: work permits, visas and residence permits, Limosa declarations, A1 forms;
- labour law, tax and social security issues;
- comparative calculations and tax and social security optimization;
- drafting assignment letters, salary split agreements and expatriate policies;
- terminating assignments.

LABOUR LAW ADVISORY

Employment law is fast-changing. Meeting your obligations as an employer and recruiting, retaining and managing the right people, has never been more critical. Non-compliance with the diverse and complex rules an employer has to respect can be expensive, in financial and reputational terms.

Lydian guides you through all areas of employment law.

The Employment Law Team specialises in:

- employment law aspects of all corporate transactions including transfer of undertakings, redundancies and dismissals;
- service agreements, contracts of employment, work rules and handbooks;
- employment policies ranging from business conduct, the use of company cars, promotion of diversity and non-discrimination to policies against sexual harassment, bullying and violence at work;
- boardroom disputes and severance claims;
- employment litigation before the Labour tribunals;
- collective issues such as information obligations towards the (European) works council;
- general employment issues ranging from remuneration schemes to general contractual issues.

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PENSIONS

Lydian can help you with the legal aspects of all your pension projects.

We have in-depth expertise in the following matters:

- plan rules and pensions benefit issues;
- pension funds and governance;
- pensions in corporate transactions;
- pensions regulatory;
- pensions in the public sector;
- pensions and dispute resolution;
- pension scheme funding and investment;
- pensions taxation;
- international pensions.

For more information about our comprehensive approach, please consult our Pensions brochure.

SENIOR EXECUTIVES

The proper functioning of central management is a prerequisite for a company to achieve excellent financial results. Senior executives fulfill a central role within the organization and give rise to special concerns in terms of corporate governance. Lydian helps companies retain key management personnel through devising cost-effective and motivating remuneration packages as well as structuring their professional relationship with the employer.

Lydian has set up a team of specialists who can give expert advice on:

- streamlining the management structure;
- corporate governance rules;
- directors and officers liability insurances;
- drafting management agreements and contracts of employment;
- the tax and social security status of directors, self-employed managers and employees;
- the most effective remuneration tools to attract, retain and motivate managers and key personnel;
- how to safeguard the company's know-how and clientele;
- exit strategy and, if needed, dispute resolution support.

PRIVACY AT WORK

We have extensive experience in data privacy issues related to employment and HR.

We advise our clients in particular in:

- recruitment and selection (vetting, background screening);
- processing HR management data (databases, software), including notifications with the Belgian Privacy Commission;
- managing (inappropriate behaviour) investigations on employees;
- developing and implementing global data privacy agreements/clauses as well as specific privacy policies on cyber surveillance (including social media), use of cameras and other tracking systems, whistleblowing, etc.

“Lydian’s employment team is valued for its ‘in-depth knowledge and practical advice’.”

(Legal 500, 2012)

A TEAM WITH EXPERIENCE

We have a team with the experience to foresee problems and respond in an appropriate way to change.

All the lawyers in our team have particular areas of expertise, whether in international mobility, pensions, restructuring, negotiations or litigation. Together they have experience of handling every legal aspect of employment law. They are true experts in their field and have excellent contacts with the relevant authorities.

OUR EXPERTS

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Jan graduated in 1992 with a law degree from the Catholic University of Leuven (KUL). In 1993, he received a further bachelor degree in tax sciences at the Brussels Tax College (EHSAL).

From 1993 to 2002 he was an attorney with Stibbe in Brussels, where, from 2001, he was one of the partners heading up the employment law department.

On 1 January 2003 he joined Lydian, where he represents both companies and executives in employment counselling and transactions. He has extensive experience in the full range of employment law, with a special focus on company restructurings (mass lay-offs including collective bargaining), negotiation of severance packages for senior executives and drafting of HR policies.

He is often involved in cases of employee fraud, privacy issues related to internal investigations, whistle blowing and dismissal for cause. For this reason, he is also a Registered Forensic Auditor at the Belgian Institute for Forensic Auditors (IFA), and he lectures at the Master course in Forensic Auditing at the University Management School of Antwerp (UAMS).

He has written numerous articles on issues of labour law, including a handbook on Discrimination in employment relations and on European works councils. He is, moreover, national contributor for EELC. His expertise has also merited him an entry in Chambers, Legal 500, PLC Which Lawyer? and European Legal Experts.

Jan was managing partner of Lydian from 1 January 2010 till 1 January 2013.

ALEXANDER VANDENBERGEN

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Alexander graduated with a degree in law from the Catholic University of Leuven (KUL) in 1991. He also studied European Law at the University of Edinburgh.

He was an attorney at Loeff Claey's Verbeke (now Allen & Overy Belgium) from 1991 to 1999, where he was in charge of pensions law from 1995. He was made a Director at KPMG Tax & Legal Advisers in 1999 where he worked closely together with the KPMG actuaries and employee benefit consultants. He left on 1 January 2001 to found what is now Lydian.

He deals with all aspects of employment and pensions law. His practice concentrates on two specific niches: (i) collective labour law issues with particular emphasis on the labour law aspects of large corporate reorganizations; and (ii) specific projects in the area of pensions (i.e. restructuring or winding down of pension schemes, complex litigation, etc.).

Alexander is a member of the International Pension and Employee Benefits Lawyers' Association (IPEBLA), the European Employment Lawyers' Association (EELA), and the American Chamber of Commerce (AmCham). He's also one of the founding members of the Belgian Pension Lawyers Association (BePLA). Chambers, the Legal 500, Who's Who Legal, PLC Which Lawyer? as well as the European Legal Experts mention Alexander as a reference in his focus area.

Alexander was managing partner of Lydian from 1 January 2007 till 1 January 2010.

ISABEL PLETS

Of Counsel

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Isabel graduated with a law degree from the University of Gent (UGent) in 1996.

She then worked fulltime as labour law research assistant in the social law department at Ghent University.

Isabel joined Lydian on 1 January 2001. At the same time, she remained a practical lector at Ghent University.

She has considerable experience in Belgian and European individual and collective labour law.

Isabel's practice focuses on data protection and privacy issues at work, such as the processing of HR-related personnel data (databases, software), the drafting of privacy policies, f.i. around cyber surveillance (including social media) and good conduct. She advises clients on all aspects of Health and HRM and assists them in drafting health-related policies (such as alcohol and drugs, stress, harassment,...). She also has a particular experience in the employment in the public sector.

She is in charge of Knowledge Management in the Employment, Pensions & Benefits department. Furthermore Isabel is a frequent speaker at seminars and a regular publisher of social law related topics.

JURGEN DE VREESE

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Jurgen graduated with a degree in law from the Vrije Universiteit Brussel (VUB) in 2001. A year later, he received an LL.M in French and European Law from the University of Paris 1 Panthéon-Sorbonne, which also involved undertaking a three-month internship in the French law firm Berlioz & Co. In 2008, he obtained an advanced master's degree in pension law at the University of Leuven.

From 2002 to 2006, he worked as an attorney at Tilleman van Hoogenbemt, a law firm specialising in social and labour law. On 1 March 2006, Jurgen joined Lydian, where he worked in labour law and pension law. At the end of 2011, Jurgen joined the employment department of Eubelius as a senior associate for a three-year period. On 1 January 2015, Jurgen returned to Lydian to join the Employment, Pensions & Benefits department as counsel.

He deals with collective labour law issues such as restructurings and collective dismissals. In addition to these employment law topics, he deals with several pension projects such as setting up pension funds and pension restructurings. Jurgen also specialises in employment and tax matters relating to compensation and benefits.

Jurgen has published several articles and regularly speaks at internal and external seminars. Jurgen is also a guest lecturer at the Erasmushogeschool Brussels and a voluntary fellow of the social law practice at the VUB. Jurgen is a member of the steering committee of the Belgian Pension Lawyers Association (BePLA) and a member of the Association for Social Law ("Vereniging voor sociaal recht").



HIGHLIGHTS OF OUR RECENT EXPERIENCE

AN INTERNATIONAL TOUR OPERATOR

We assisted an international tour operator in the restructuring and outsourcing process of several of its departments, including IT, Finance and City Travel.

This restructuring involved:

- negotiations with Trade Unions and signing of several collective labour agreements;
- setting-up of structures whereby key employees were transferred from the Belgian payroll to a Swiss payroll, including calculation of tax impact, drafting new employment contracts and negotiating with individual employees;
- collective dismissal of employees whose job was made redundant following the outsourcing of the activities.

A CHAIN OF CONSUMER ELECTRONICS SUPERSTORES

We assisted the Belgian member of an international chain of consumer electronics superstores with the restructuring of management positions, whereby central management and 25 store managers are transformed from employees into self-employed contractors.

This project included:

- calculation of financial impact for both company and management;
- design of new management structures;
- drafting of individual contracts;
- negotiation with management.

AN INTEGRATED GROUP OF FOREST PRODUCTS COMPANIES

One of our clients was confronted with a case of serious employee fraud (money embezzlement).

We assisted the client with:

- internal forensic investigation process (including privacy issues);
- termination of the employment contract of the employee involved;
- litigation in court;
- recovery of the money.

AN INSURANCE COMPANY

We assisted an international insurance company with the acquisition of the insurance activities of a Belgian financial institution. The acquisition went through two steps: first, the insurance activities were split off and moved into a newly created legal entity, then that entity was taken over by the international insurance company.

Our assistance included among other things:

- drafting of new employment contracts and work rules;
- advice on structural changes of the bonus arrangements;
- advice on changes in the management team;
- setting up of a separate works council and safety committee;
- advice around European works council issues.

A SECONDMENT TO A GAS OPERATOR

One of our clients temporarily lacked internal employment law support following the departure of an internal legal counsel with employment law expertise.

We helped our client by seconding one of our employment lawyers three days a week until a replacement was found. During the secondment the employment lawyer was fully integrated in the HR department and rendered employment law advice on a daily basis at an agreed fixed rate per day. Eventually, the secondment lasted several months.

A TYRE MANUFACTURER


We assisted a tyre manufacturer with the amendment and renegotiation of the agreement on its European Works Council.

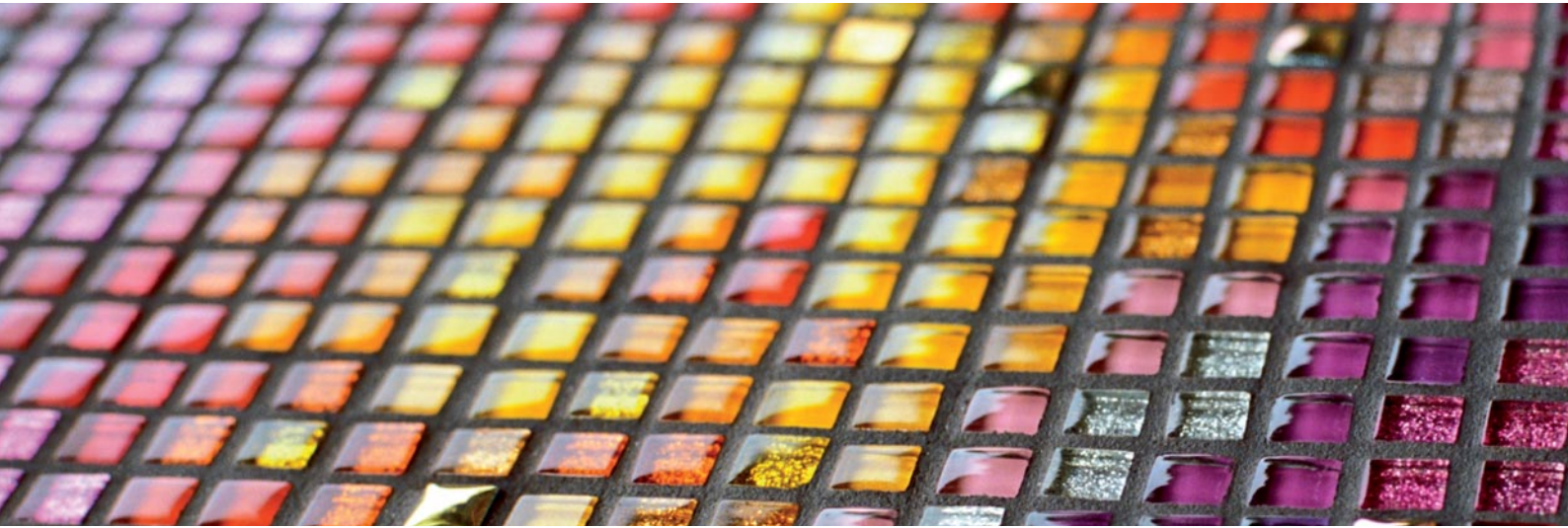
Our assistance included the drafting of the amended agreement, simulations on the calculation and distribution of the mandates and presentation of the suggested changes to all HR Managers of the group located in Europe.

SENIOR EXECUTIVES AND LARGE COMPANIES

We assisted numerous senior executives and large companies following individual dismissals.

Our assistance included amongst other things:

- calculation of the severance package and alternative departure packages;
 - negotiations;
 - possibly, litigation;
 - drafting and negotiating settlement agreement.
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