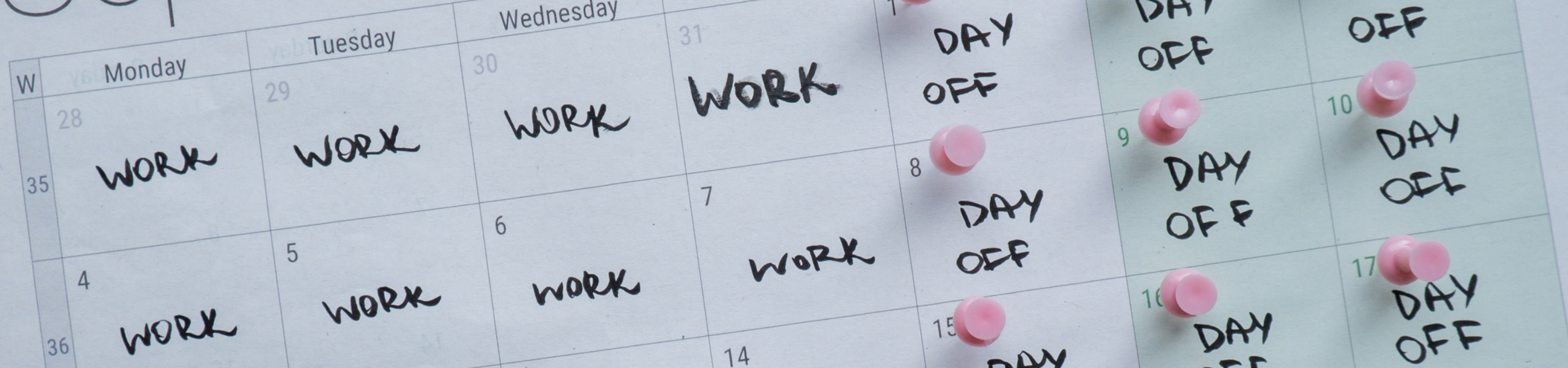




## The 4-day working week Belgium & France





Many countries are experimenting with the four-day work week to improve the work-life balance of their workforce, increase productivity and/or reduce commuting time. Notwithstanding its clear benefits, implementing such a system can be challenging, as the existing legal framework might need adjustment first and the impact of longer working days on the wellbeing of employees should be monitored closely.

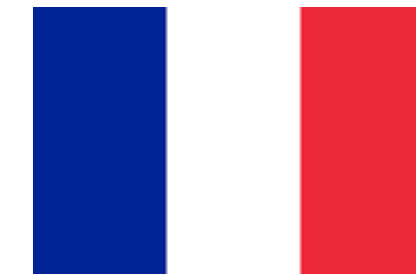
In this article, our experts from [Sotra](#) in Belgium and [MGG Legal](#) in France focus on 5 key questions and give us an overview of how things are done in their respective countries.

In Belgium, it is not allowed to work more than 9 hours per day, save exceptions foreseen by law. Also, the weekly working time in Belgium equals 38 hours, although in some sectors and companies, 39- or 40 hour-weeks are allowed, provided that extra compensatory rest days are allocated. Until the end of 2022, it was thus not possible to perform a fulltime working week over only four working days. Meanwhile, there is currently no legal framework for the 4-day week regime in France. When it comes to working time, the only legal reference is 35 hours per week, and at least 36 consecutive hours of rest per week. Yet, considering the current trends and with the objective of retaining the talents and becoming more attractive, several companies have started to experiment the 4-day week regime.

# How can an employer implement the 4-day week in your respective countries?



The 4-days fulltime work-schedule can be implemented in the company by a modification of the work-rules, when the daily limit of 9,5 hours is not exceeded. This is the case for companies with a 38-hour work-regime. For companies with a 39- of 40-hour work-regime, a collective bargaining agreement is needed to implement the full-time 4-day week. This CBA can be negotiated at company- or industry-level.



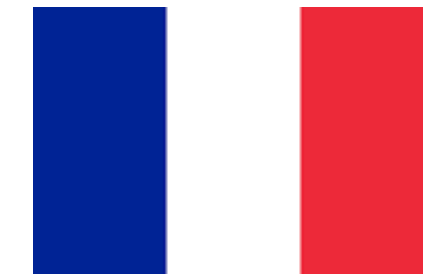
Most companies have implemented the 4-day week regime by way of collective bargaining agreement negotiated with representative Trade Unions at company level. Furthermore, in accordance with article L. 2312-17 of the French Labor Code, the employee representatives' bodies (called "CSE") must be consulted on such project, considering the potential impacts it might have on the employees' working conditions.



# Does the employee have to volunteer to the 4-day week program? How to formalize the agreement of both parties?



The full-time 4-day working week cannot be imposed on employees. Once the working regime has been introduced in the company (step 1), the employee can apply for it (step 2) and if the employer agrees, they must formalize this with an annex to the employment contract (step 3). Next to several mandatory provisions, the annex must also mention that it is only valid for a renewable period of 6 months. If the employer refuses the application, he should justify this decision in writing within one month as of the application date.

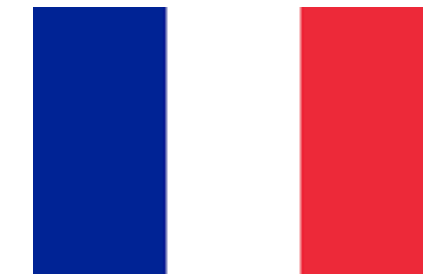


Considering the absence of legal framework, it is up to the collective bargaining agreement to determine who is eligible to this program and how the employer may formalize its agreement with the employee. This being said, the implementation of 4-day week regime constitutes in our view a substantial change in the employee's contract. Therefore, it seems more secure to record the agreement of both parties by way of addendum to the employment contract.

# Is the employee free to plan unilaterally the additional day off?



In the annex to the employment agreement, the parties decide when the employee will have the extra day off. This day should however be fixed for the entire duration of the annex. It is thus not possible to foresee some flexibility with respect to, for example, collective work meetings. If the employee wishes to change the planning of the extra day off, for example during the summer holidays, then a new annex will have to be signed.

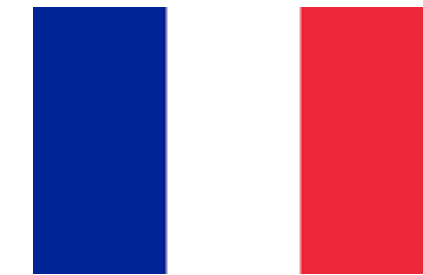


Once again, considering the absence of legal framework, the collective bargaining agreement and/or the addendum is free to determine how the additional resting day is taken by the employee. To avoid the absence of every human resource on a single day and to preserve the Company's activities, it is the employer's responsibility to identify the needs of each department. The managers have a crucial role in this respect. The employer must be able to determine the most suitable organization to keep the service running smoothly: implementing a system of rotating rest days, pre-determining a fixed rest day, setting a day of the week where everyone must be on site, etc.

# What are the inherent risks that you can identify in your country with the implementation of a 4-day week regime?



The 4-day working week has been created to ensure a better work-life balance. For this reason, at least every 6 months, the employee is given the choice to continue in this system or to return to a classic 5-day regime. Furthermore, to avoid undermining the work-life objective of this reform, employees are prohibited from performing voluntary overtime hours during the extra day off. Finally, as in France, employers must ensure that the mandatory arrangements relating to the right to disconnect are respected, especially during the extra day off.

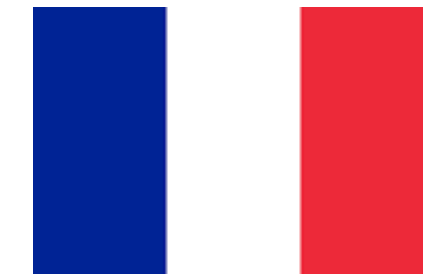


Several risks may stem from the implementation of such regime including the significant increase in the employee's daily working time which might ultimately incur, for some employees, difficulties to finalize the projects they are working on. Furthermore, some activities may continue while the employee is supposed to be off. In order to ensure the effectiveness of the additional resting day, the employer must make sure that the right to disconnect (which already exists under French law) functions well in the Company.

# How do you see the development of the 4-day week regime in your respective countries?



Even if employees seem to show some interest in the system, most employers are rather reluctant to implement the regime, since they still struggle to get employees back to the office. And, in the end, it is still the employer who decides whether to introduce the 4-day working week or not (see question I). However, some employees in the private sector can create some pressure and force the employer to at least assess the request and justify his refusal decision, when they make their request in the context of the new rules to promote more flexible work arrangement for employees with a care-responsibility, foreseen in the national CBA nr. 162.



A bill on this very matter is still awaited in order to provide employers with a legal framework in which they can operate more securely. The legislator might be forced to take action given that (i.) many European countries have already decided to enshrine this new working time organization into Law and that (ii.) the European parliament is gradually acknowledging the concept of “flexible employment solutions” (see for instance EU Directive 2019/1159 dated June 20, 2019).



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