

IN Amsterdam *Work & Careers seminar*

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Dutch Employment & Dismissal Law

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international newcomers
amsterdam

Introduction

- How it all started...
- Twenty years assisting expats
- I Employment Law
 - A. Revision of draft employment contracts
 - B. Sickness situations - salary issues
 - C. Non-competition clauses - legal advice
 - D. Dismissal and redundancy - advice, negotiations and court proceedings
- II Insolvency Law

- 1) Types of employment contracts
- 2) Chain rule
- 3) Probation period
- 4) Contract clauses
- 5) Employee protection
- 6) Severance pay
- 7) Severance pay until July 2015
- 8) Questions

Types of employment contracts

- 1st **Temp contracts -**
 - CAO Uitzendkrachten Collective Labour Agreement temporary workers:
 - Phase A (78 weeks, temp clause)

- 2nd **Flex Workers - 0 hours - On-Call**
 - Fixed number of hours after 12 months
 - 4 days notification
 - Payment if shift cancelled

- 3rd **Definite period of time**

- 4th **Indefinite period of time**

Chain rule - 2020 *

Contract for an indefinite period of time

A. After 36 months, or

B. As of the commencement of the 4th fixed-term contract

Unless there is a break of more than **six** months between successive contracts

** Exceptions in collective labour agreement possible!*

Probation period

Duration of employment contract	Maximum probation period *
Indefinite contract	2 months
Contract of 2 years or longer	2 months
Contract less than 2 years	1 month
Contract for the duration of a project	1 month
Contract for 6 months or shorter than 6 months	No probation period

** The provisions of a collective labour agreement may deviate from the given maximum probation periods*

Contract clauses

Clause	Comments
<i>Holidays</i>	Minimum: 4 * weekly working days (4*5 = 20 days)
<i>Holiday pay</i>	8%
<i>Salary</i>	Minimum € 1.653,60 (> 21 years; Jan 2020)
<i>Employee notice period</i>	1 month; sometimes more...
<i>Employer notice period</i>	< 5 years: 1 month 5 - 10 years: 2 months 10 - 15 years: 3 months > 15 years: 4 months
<i>Non-competition clause</i>	A. NOT for short term contracts - in principle... B. Binding clause ?

Employee protection

- *Sickness situations*
 - 2 years continued payment: 70% or more
 - For higher salaries statutory *minimum* is capped
 $70\% * € 4.769.- = € 3.338.-$ gross
 - Re-integration
 - No termination of employment by giving notice during first 2 years of sickness
- *Dismissal protection*

Severance pay - statutory rules 2020:

- 1/3rd of monthly salary for each year of employment
 - 2.78% of annual salary for each year
- Maximum: € 81,000 - or 1 year salary (if higher)
- Court can award higher severance if employer seriously culpable...

Severance pay before July 2015

old rules sometimes still used in Social Plan

$$A*B*C = \text{€ ...?}$$

A = Number of years of employment, weighted according to age (< 35, 35-45, 45-44, >55)

B = Monthly remuneration

C = Blame factor (in Dutch: '*Correctie factor*')

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