Newsletter: The new CCA in the HR practice

March 2019

1 Some new concepts 2
2 Protection against revocation for company representatives 2
3 No employment contract for the director and member of the management board 3
4 The management of the public limited liability company (NV/SA) 4
5 The management in the private company (BV/SRL) 5
6 Conflicts of interest 6
7 Natural person as permanent representative of the legal person 7
8 Written board resolution 7
9 CCA introduces a limitation to the director's liability 8
10 Only one founder / shareholder needed in the BV and NV 10
11 When do the provisions of the CCA become applicable? 10

Dear reader,

The new Code of Companies and Associations (the "CCA") is a fact. It was approved on 28 February 2019 and will soon be published in the annexes of the Belgian State Gazette. With this new code, company law becomes simpler and more flexible. The CCA follows the developments in Europe. The aim is to make our country more attractive for companies and associations. The (international) non-profit associations and foundations are now part of this code. The (international) NPA Act of 1921 is abolished.

But what does this new code mean for your HR practice? That is what we review in this Newsletter.

All company representatives, including directors of a public limited liability company (NV/SA), can now receive protection against dismissal (a notice period and/or indemnity in lieu of notice). The uncertainty as to whether members of a management committee ("directiecomité" / "comité de direction") (which is also renamed the "management board") are always self-employed or can exercise their mandate under an employment contract is over: they cannot work under an employment contract. A director cannot at the same time be a member of the management board. A permanent representative of a legal entity-director must be a natural person. Such natural person may not at the same time fulfil a mandate in the same management body in his or her personal name. Management bodies will be able to decide by way of written resolutions, without the strict conditions imposed by the current Companies Code. The liability of company representatives is limited, which will make it easier to secure insurance.

Below, we discuss these and other new elements in detail.

We hope you enjoy the read!

1 Some new concepts

Let's start by noting that some established terms are disappearing.

The private limited liability company, abbreviated as "BVBA/SPRL", will now be the **private company**, abbreviated to "BV" (in Dutch) and "SRL" (in French) (similar to the BV in the Netherlands). The public limited liability company, abbreviated to "NV" in Dutch and "SA" in French, keeps its name.

The terms "partners" ("vennoten" in Dutch / "associés" in French) and "managers" ("zaakvoerders" in Dutch / "gérants" in French), which were used for a BVBA/SPRL, will disappear. The terms "shareholders" and "directors" are now used for both the BV/SRL and the NV/SA. For companies without or with incomplete legal personality, the terms partner and manager remain.

If an NV/SA wants to work with a double-tier management, which is now possible with a board of directors and an executive committee, this is organised differently under the CCA as a **supervisory board** and a **management board**.

A warrant becomes a **subscription right**.

2 Protection against revocation for company representatives

In our company law, the principle applies that the mandate of a company representative who is given the confidence and power to manage the company's assets can be terminated at any time, this is the so-called "*ad nutum*" revocability. For the director of an NV/SA, this principle was even considered to be of public order. For all other company representatives this was supplementary law. This meant that a director of an NV/SA could at any time be dismissed, without notice period nor indemnity in lieu of notice. The shareholders' meeting did not have to justify its decision, and no special majorities could be imposed for this dismissal decision.

This public order character of the *ad nutum* revocability of a director of an NV/SA was strongly criticised in legal doctrine and in practice gave rise to protection constructions, such as suspended employment contracts, consultancy agreements with the director for "other" tasks, and promises to pay a termination compensation by a group company.

In the CCA, the *ad nutum* revocability remains the principle, but this is now for all company mandates of supplementary law.

For the managing director and the member of the management board, nothing changes here; they could already be given protection against dismissal by providing for a notice period or indemnity in lieu of notice in the appointment decision or a management agreement. This is now also possible for directors of an NV/SA, unless the bylaws stipulate that the *ad nutum* revocability remains in force unchanged.

The CCA specifically provides that bylaws of the NV/SA may provide that the mandate of a director may only be terminated with a notice period or an indemnity in lieu of notice. A director's protection against dismissal can therefore be embedded in the bylaws.

With this protection against dismissal comes the introduction of the "dismissal for legitimate reason" of the director. Until now, this was only foreseen for dismissal of the statutory manager in a BVBA/SPRL. The shareholders' meeting can terminate the mandate of a director at any time for legitimate reasons, without notice period or indemnity in lieu of notice.

If a director believes that there is no legitimate reason, he or she may contest this before the business court. If the reason is found not to be legitimate, the court will decide whether it is appropriate to reinstall the director or to compensate for the dismissal.

The preparatory works give as example of a legitimate reason, a serious criminal offence in the professional sphere, or tax fraud. This will surely give rise to case law on the interpretation of the concept in concrete cases, similar to what we know for employees being dismissed for a serious cause.

In contrast to employment law, no strict deadlines or formalities are imposed for invoking a legitimate reason. However, it is advisable to act quickly in the event of acts or omissions that may constitute a legitimate reason and to submit the situation to the shareholders' meeting with a view to a possible dismissal decision.

3 No employment contract for the director and member of the management board

It was clear for directors of an NV/SA: they could not exercise their mandate under an employment contract. This is partly because of the public order nature of the *ad nutum* revocability, which is not compatible with an employment contract. Termination of an employment contract by the employer requires observance with a notice period or the payment of an indemnity in lieu of notice.

For a member of the management committee, the situation was less clear.

According to Royal Decree No 38 of 27 July 1967 organising the social status of self-employed persons, company representatives are deemed to exercise an independent professional activity, although the contrary could be proved.

According to the National Institute for Social Security for the Self-Employed (ONSS in French, RSVZ in Dutch), a member of the management committee is not necessarily considered a company representative. This will only be the case if the management committee has sufficient and real decision-making and representation powers.

For a manager of a BVBA/SPRL, one could argue that he exercised his mandate under an employment contract, only in the situation where the company had created a board of managers, abolishing the sole decision-making power of the managers, and a certain hierarchy had been established within the board of managers.

The CCA now leaves no doubt. Directors of a BV/SRL (the former managers of a BVBA/SPRL) and an NV/SA and members of the management board (of an NV/SA) cannot perform such mandate under an employment contract.

For directors of an NV/SA this does not change much, as they could not have an employment contract under the current law, but it may have an impact on the members of the new management boards (who will replace the current management committees). The members of the management board cannot exercise this mandate under an employment contract and will therefore, if they were employees, have to switch to an independent status.

Nothing changes for the person in charge of the daily management. She can also exercise the mandate of day-to-day management under the new Act as a self-employed person or as an employee of the company.

In addition, it is of course always possible that a director or a member of a management board also has an employment contract in addition to their mandate, but the employment contract must then relate to a function clearly distinct from the exercise of the mandate.

4 The management of the public limited liability company (NV/SA)

The CCA provides two possibilities to organise the board i) one-tier management or ii) two-tier management.
The NV/SA must choose between the two systems. In the absence of choice, the monistic board will automatically apply.

4.1 **One-tier management**: board of directors or sole director

4.1.1 Board of directors

The management of the NV/SA is entrusted to a collegial board of directors with full management authority.

This is the current system that is included in the CCA, subject to a number of changes and clarifications, in particular with regard to the revocability of the directors and conflicts of interest (see point 5.4).

4.1.2 Sole director

The principle of plurality, which forbade the single administrator, is now removed. The board of directors remains, as in the current Companies Code, the standard model. From now on, however, an NV/SA will be able, via the bylaws, to choose to entrust the management to one natural or legal person.

The possibility of granting the management to a sole director is a novelty of the reform, which brings the method of management in line with the management of the BV/SRL, in which this is the usual way of management. From now on, an NV/SA can be managed by one person, regardless of the number of shareholders.

The sole director is vested with the most extensive management authority.

The sole director may be appointed in the bylaws. The bylaws may also provide that the sole director is jointly and severally liable for the company's obligations and that his consent is required for any amendment of the bylaws or for any distribution to the shareholders. The bylaws may also appoint his successor.

4.2 **Two-tier management**: supervisory board and management board

In the two-tier system, management power is divided between two bodies: the **supervisory board** and the **management board**. This regime is purely *optional*. An NV/SA wishing to organise itself in this way must stipulate this in its bylaws and must comply with the legal framework provided for both bodies.

The hybrid option provided for in the Companies Code to set up a management committee with the possible participation of directors (Art. 524bis, Companies Code) is replaced by the possibility to opt for an integral two-tier structure.

4.2.1 Appointment

The CCA ensures that members of the supervisory board can no longer be members of the management board. This is a binding rule from which one cannot deviate.

4.2.2 Distribution of competences

The presence of two management bodies requires a division of powers. This division is determined by law. Moreover, the bylaws cannot deviate from the statutory regulations.

The supervisory board

The supervisory board is competent for the general policy and strategy of the company and for all actions that are explicitly assigned to the board of directors within the framework of the monistic scheme; for example, approval of the reports addressed to the general assembly, convocation of the general assembly, closing of the annual accounts, capital increase within the framework of the

authorised capital, distribution of interim dividends, etc.

The supervisory board is also charged with the supervision of the executive board and can grant discharge to the latter.

The management board

The management board, in its turn, is in charge of all other actions. In other words, the management board has residual competence.

In practice, this mainly relates to business management, more specifically making decisions relating to economic activities and contracts with customers, suppliers, employees, investments, etc.

The management board reports periodically to the supervisory board on its activities and provides it, ex officio or upon request, with the information necessary for the performance of its duties.

The management board may also represent the company vis-à-vis third parties, even in matters that do not fall within its decision-making powers.

4.3 The daily management

The principle that an NV can delegate its daily management remains valid in the context of this reform. However, the scope of the powers of the managing director is now defined and extended by law: "*The daily management includes all acts and decisions that do not go beyond the needs of the daily life of the company, as well as acts and decisions that do not justify the intervention of the board of directors, the sole director or the executive board because of their urgency".* In concrete terms, what is changing is that the lesser interest and urgent character are no longer cumulative but alternative conditions.

5 The management in the private company (BV/SRL)

The CCA does not bring about a substantial change to the management modalities of the SRL. In the event that there are several directors (former managers), these may or may not constitute a collegiate management body. In the absence of a collegial body and if several directors are appointed, their management powers are competing. Each of them can exercise management powers and perform actions that bind the company.

5.1 Appointment of director(s)

The directors are **appointed** by the bylaws or by the **general assembly**.

The directors are appointed:
- by the shareholders' meeting for a definite or indefinite period;
- in the bylaws for an indefinite period.

Unless the bylaws or the appointment decision of the shareholders' meeting provides otherwise, the mandate of a director runs from the meeting of the general assembly at which she is appointed until the ordinary general assembly (approval of the annual accounts) in the financial year in which her mandate expires according to the nomination decision.

The directors are remunerated for the performance of their mandate, unless the bylaws provide otherwise or the general assembly decides otherwise when they are appointed.

Only the general assembly has the authority to determine the financial conditions under which the mandate of a member of the management body is granted and exercised, as well as the conditions under which this mandate is terminated.

5.1.1 Dismissal from the mandate

- **Non-statutory director:** unless the bylaws or the general assembly stipulate otherwise in the nomination decision, the general assembly may terminate the mandate of a non-statutory director with immediate effect at any time and without stating any reasons.
- **Statutory director:** the dismissal of a director appointed in the bylaws requires an amendment to the bylaws. The bylaws may require a justification of the dismissal, a special majority or even a unanimous vote.

Unless the bylaws provide otherwise, the general assembly may at the time of the termination always determine the date on which the mandate ends or whether to grant severance pay.

Any director may resign by mere notification to the administrative body. At the company's request, he must remain in office until the company can reasonably provide for his replacement.

Whether he was dismissed or resigned, the director concerned can himself take the necessary steps to enforce the termination of his mandate against third parties by accomplishing the required publications.

5.2 The director(s) - working method

5.2.1 Management authority - competitive, joint or collegial

The CCA does not make any substantial changes to the working method of the board. In the event of several directors, they may or may not form a college. In the absence of a college and if several directors are appointed, their management powers are competitive. Each of them may exercise management powers and perform acts that bind the company.

5.3 The daily manager(s)

The CCA introduces the figure of the daily manager that we only knew in the NV/SA now also in the BV/SRL. The management body can delegate the daily management of the company, as well as the representation of the company with regard to that management, to one or more persons. Their appointment, dismissal and competences are regulated by the bylaws. The management body that has appointed the body of daily management is charged with the supervision of this body.

As for the NV/SA, the extended definition of daily management is used (see point 4.3).

6 Conflicts of interest

The formalities regarding conflicts of interest are largely based on the previously applicable principles. The modifications relate to different levels of government.

The decision is therefore taken:

- **either** by a "higher" organ:
  - the general assembly in case of a conflict of interest of the sole director;
  - the supervisory board in case of a conflict of interest within the management board of the NV;
- **or** by the particular organ, provided that a specific procedure in the board of directors or the supervisory board is respected.

Exception: if the sole director is also the sole shareholder, the director can - in this capacity and in the absence of a collegiate administrative body - take this decision solely.

Within the CCA, the person involved in the conflict can no longer participate in the decision nor vote (which was possible in the current system). The members of the body not involved in the conflict of interest therefore take the decision. If all members are involved in the conflict, it should be referred to the general

assembly. Furthermore, the procedure remains unchanged (communication to the commissioner and obligation to publish).

7 Natural person as permanent representative of the legal person

When legal persons were nominated as directors, managers or members of executive committee in a company, it was in the past mandatory to appoint a permanent representative. However, this provision was not clear for numerous reasons and left room for different interpretations. The legislator is now putting an end to this.

7.1 Permanent representative is a natural person

The Companies Code did not stipulate specifically in Article 61, §2 that a permanent representative must be a natural person, although this was the intention of the provision. This resulted in the appointment of another legal entity as permanent representative in cascade, to be followed later by a natural person.

The CCA now specifically provides that a permanent representative must be a natural person.

7.2 Permanent representative for the mandate of daily management

The Companies Code stipulated the obligation that a permanent representative must be a natural person when exercising the mandate of "*director, manager or member of the executive committee (...)*".

The mandate of daily management was not mentioned here. This oversight is now corrected, and the CCA now imposes that a permanent representative must also be appointed for the mandate of daily management, which is exercised by a legal person.

7.3 Permanent representative: appoint a deputy

The CCA now foresees the possibility for the sole director/legal person to appoint a deputy permanent representative, who acts when the permanent representative is unable to attend. All provisions applicable to the permanent representative also apply to this deputy permanent representative.

The appointment of this deputy permanent representative will therefore also have to be published in the Annexes to the Belgian State Gazette, as well as the termination of this mandate.

7.4 Free appointment of permanent representative legal person

The CCA provides that any natural person can act as permanent representative. It does not necessarily have to be an agent or an employee of the legal person concerned.

The permanent representative must comply with the same conditions as the legal person and is jointly and severally liable as if he himself were performing the mandate in his own name and for his own account.

8 Written board resolution

8.1 Written decision-making simplified for the NV/SA

Under the Companies Code, written decision-making by the board of directors of an NV/SA was already possible, but under strict conditions. The possibility for written decision-making must be provided for in the bylaws, and can only be applied in extraordinary circumstances, when justified by the urgency of the matter and the interest of the company. For the adoption of the annual accounts, the use of the authorised capital or in cases excluded by the bylaws, written decision-making could not be applied.

This only caused practical difficulties. In order to make our company law more flexible and attractive, these restrictions have been removed.

The CCA now only stipulates that decisions of the board of directors can be adopted by unanimous written decision of all directors, with the exception of decisions for which the bylaws exclude this possibility.

In addition, written decisions of the supervisory board and the management board are also possible with unanimous consent, with the exception for matters that are excluded by the bylaws.

8.2 Written decisions by the collegial board of the BV/SRL

In the Companies Code, there was no possibility for the BVBA/SPRL for the board of managers to adopt written decisions.

Under the CCA, written decision-making is now also possible for the BV/SRL, if it installs a collegial board. The decisions of the collegial board of the BV/SRL can be adopted in writing signed by all directors, with the exception of those decisions for which the bylaws exclude this possibility.

9 CCA introduces a limitation to the director's liability

9.1 Director's liability: Quid?

Any member of a board or executive director and all "de facto directors" are liable towards the legal person for any fault in *the performance of their duties*.

A director who commits an *extra-contractual* breach may also be held liable by third parties.

Members of the board are also liable for all damage resulting from the infringement of the provisions of the Companies Code or the company's articles of association, vis-à-vis both the company and third parties.

Under the Companies Code, this liability was not limited.

In a far-reaching and controversial change, the CCA introduces a limitation for directors' liability for an occurrence or set of occurrences (a "cap").

The advantage of this is without doubt that directors in Belgium will be in a better position to insure themselves against possible directors' liability in the future, as insurers will have a better view of the possible claims.

9.2 Limitation of directors' liability

9.2.1 Who can invoke the limitation of liability and in what matters?

Each (daily) director and each member of a board of directors or a supervisory board may invoke the limitation of liability.

The limitation of liability applies in the following cases:

- when a director is liable due to ordinary management errors;
- when the liability arises from a violation of the CCA or the bylaws;
  when the liability arises from other special laws and regulations

The limitation of liability may be invoked vis-à-vis both the legal person and third parties, and irrespective of the basis of liability that the latter invoke (contractual or extra-contractual or other).

9.2.2 The limits of directors' liability

Under the CCA, the liability of members of the board and the daily director is limited.

The limitation of liability is expressed in an absolute amount.

Depending on the turnover and the balance sheet total generated by the company, a director can only be held liable up to a maximum amount.

The idea is that the larger the company, the less the liability of the director will be limited. This will allow a director in a large company to be held liable for a higher amount.

The maximum amount ranges from EUR 125,000 for smaller companies to EUR 12 million for larger companies and so-called 'public interest organisations' (including listed companies).

The maximum amounts apply to all directors together. They apply per fact or set of facts that may give rise to liability, regardless of the number of plaintiffs or claims.

The legislator thus applies the “first come first served” principle. If a creditor has already obtained the maximum from the director who is held liable, a second creditor will not be able to claim again.

9.2.3 The exceptions to the directors’ liability

Directors’ liability cannot be limited in every case.

For instance, the director will be liable for all the damage caused by him in the event of minor error, which is more common than accidental, gross negligence and fraudulent intent. Due to an amendment adopted *in extremis* by Parliament, the limitation of the directors’ liability will therefore only apply in the event of a single or accidental minor breach. The legislator wanted to avoid the limitation of liability of directors being larger than of employees. The liability of the employee is indeed limited on the basis of Article 18 of the Employment Contracts Act in the sense that an employee can only be held liable for gross negligence, intentional acts or for repeated minor misconduct.

In practice, the difference between employees and directors will therefore be that for minor misconduct by employees, only the employer will be liable, and for minor misconduct by directors there will be a cap so that the liability can be insured.

Of course, the limitation of liability does not apply if the fault was committed with the intention of causing damage.

Liability can neither be limited with regard to the guarantee obligations included in the CCA. Concretely, the members of the board are jointly and severally liable towards interested parties for the shares for which no valid subscription has been made.

The limitation of liability is also not applicable with regard to the tax authorities. Directors therefore remain jointly and severally liable in the event of tax fraud as well as for unpaid withholding tax or VAT.

9.2.4 Director’s liability risk cannot be eliminated through exemption and indemnification clauses

The converse is that the limitation of liability of a member of the board of directors or a daily manager cannot be further restricted than stipulated in the CCA.

The legal entity (or its subsidiaries or companies that it controls) is thus prohibited from exonerating or indemnifying members of the board or a daily manager in advance against their liability towards the company or third parties.

The legal entity therefore cannot, by means of an exemption clause, renounce in advance its possibility of holding directors liable or stipulate that certain misconduct is not misconduct relating to the legal entity.

In addition, the costs of directors’ liability cannot be passed on to the legal entity via an *indemnity clause*.

Of course, directors can still receive discharge from the legal entity after misconduct has been committed.

The legal entity may also insure its directors at its own expense with an insurance company by means of a so-called “D&O” (Directors and Officers) insurance.

10 Only one founder / shareholder needed in the BV and NV

The Companies Code was based on the premises of a plurality of shareholders, and only exceptionally allowed the possibility of a single shareholder.

For example, a NV could only be established by at least two founders. The creation by one person of a BVBA was possible, but with an increased payment obligation (EUR 12,400 instead of EUR 6,200). The natural person, who was the sole partner of a BVBA, was considered to act jointly and severally as a guarantee for the obligations of any other BVBA, which he would subsequently set up alone or of which he would subsequently become the sole partner, unless he became the sole partner following a death.

If the BVBA was constituted by one legal entity or if it subsequently became the sole shareholder, this shareholder was jointly and severally liable for the debts of the BVBA, from one year after the gathering of all the shares in his hands if no new partner had not been found during this period (or that the company had been dissolved). This liability was also applicable to the sole shareholder of the NV, who acquired all shares after the incorporation. Third parties must even be informed of this single-headed company.

In practice, this meant searching for a second shareholder, who subscribed to one or more shares or to whom one or more shares were transferred. In the family sphere, this often meant that one share was transferred to the life partner or a family member; and in the context of a group of companies, that at least one share was transferred to a group company, or sometimes even to a director.

The legislator here wanted to simplify the operation of a company. There is no longer any obligation to have multiple founders to set up an NV. The NV can be established by one person (natural or legal person).

The BV, which can also be set up by one sole person, becomes a company without share capital, meaning that there is no more statutory obligation of a capital release (which would differ depending on the number of shareholders). The requirement is now that the founder or founders ensure that the company disposes of assets at the time of incorporation which are sufficient in the light of the intended activity.

Joint and several liability also logically disappears as the company becomes one-headed. No more need to pro forma transfer one share to a second shareholder to avoid the specific liability.

For the NV, however, the fact that all shares are united in one hand, as well as the identity of the sole shareholder, must be recorded in the company file, as maintained by the registry (legal entities service) of the Commercial Court.

11 When do the provisions of the CCA become applicable?

The change in company law is fundamental in many areas. This raises the question of when companies, associations and foundations will have to comply with the new rules.

The transitional rules clarify when the new provisions will apply.

When the new provisions enter into force for your company depends on whether it is a new company, an existing company or a company whose legal form will be abolished.

11.1 The CCA enters into force on 1 May 2019 for new companies

11.1.1 “New companies”

The CCA enters into force on 1 May 2019 for “new” companies.

New companies are all companies that acquire legal personality as from 1 May 2019. A company acquires legal personality as from the filing of the extract of the instrument of incorporation at the clerk's office of the business court.

11.1.2 As from 1 May 2019, new companies are immediately subject to the CCA

The incorporation of new companies must take place in full compliance with the new law.

Anyone wishing to incorporate a company under the CCA must therefore ensure that the extract from the instrument of incorporation is filed at the clerk's office no later than 30 April 2019.

11.1.3 No incorporation of a new company under an abolished company form after 1 May 2019

A number of company forms are repealed by the CCA (such as SCRI or SCA). It will no longer be possible, after May 1, 2019, to incorporate a company in the form of one of the suppressed forms of company.

11.2 CCA mandatory applicable to existing companies as from 1 January 2020

11.2.1 Existing companies

For companies that already exist on 1 May 2019, the Code is applicable from 1 January 2020.

These existing companies may decide to apply the provisions of the CCA before 1 January 2020; if not, the CCA will first be applicable to them on 1 January 2020.

11.2.2 Opt-in possibility for existing companies

Existing companies that want to use the new company law, and the associated possibilities and opportunities (as outlined above), can already adapt their bylaws to the new law as from 1 May 2019.

A company that chooses this opt-in must fully comply with the rules of the CCA. There is thus no option to only comply with a few provisions. The new code will therefore become fully applicable from the date of publication of the amendment to the bylaws.

Be aware of the fact that, as soon as you amend the bylaws, even if it is for a minor amendment such as the change of name, the CCA will be fully applicable from then on.

11.2.3 CCA applies to existing companies as from 1 January 2020

Existing companies that do not immediately amend their bylaws will have the time to comply with the new provisions of the CCA, which will only apply to them on 1 January 2020.

Concretely, this means that the new mandatory provisions will apply to these existing companies as from 1 January 2020. Statutory provisions that are not consistent with these mandatory provisions are considered to be non-existent from that day on.

Thus, references to old legal forms will automatically be replaced, and the private company (BV) will be a company "without capital" within the framework of the CCA.

That is why the fully paid-in capital and the legal reserve of the BV will be converted into a "statutory unavailable equity account". Of course, other mandatory provisions will also be applied immediately, such as the extension of the concept of "daily management", the alarm

bell procedure and the regulation on conflicts of interest in the board.

As from 1 January 2020, the supplementary provisions will also apply insofar as they are not excluded by the bylaws.

An important obligation for existing companies is that they must fully comply with the WVV at the first subsequent amendment of the bylaws as from 1 January 2020.

Existing companies must review and align their bylaws with the provisions of the CCA when the bylaws are next amended after 1 January 2020, and no later than 1 January 2024.

It is important to amend the bylaws by 31 December 2023 at the latest, as the members of the board are personally and jointly and severally liable for the damage suffered by the company or by third parties as a result of non-compliance with this obligation.

11.2.4 Transitional provisions concerning the composition of the management committee

After 1 January 2020, management committees may also be legitimately composed, despite the fact that some of their members are also member of the board of directors.

The transitional rules provide that the Companies Code remains applicable to the management committees set up under “old” company law until the company in question submits to the provisions of the CCA, and this at the latest on 31 December 2023.

11.3 Timeline transition

As of	CCA applicable
01.05. 2019	- New companies - *Opt-in* possibility
01.01.2020	- Mandatory provisions of the CCA applicable to existing companies - CCA fully applicable as of first amendment to the bylaws
01.01.2024	- Bylaws must be amended - Complete application

Brussels
boulevard du Souverain 280
1160 Brussels
Tel.: 02 761 46 00
Fax: 02 761 47 00

Liège
boulevard Frère Orban 25
4000 Liège
Tel.: 04 229 80 11
Fax: 04 229 80 22

Antwerp
City Link
Posthofbrug 12
2600 Antwerp
Tel.: 03 285 97 80
Fax: 03 285 97 90

Ghent
Ferdinand Lousbergkaai 103
box 4-5
9000 Ghent
Tel.: 09 261 50 00
Fax: 09 261 55 00

Kortrijk
Ring Bedrijvenpark
Brugsesteenweg 255
8500 Kortrijk
Tel.: 056 26 08 60
Fax: 056 26 08 70

Hasselt
Kuringersteenweg 172
3500 Hasselt
Tel.: 011 24 79 10
Fax: 011 24 79 11

Partners with you.