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BELGIUM SETS OUT CRITERIA FOR 'POSITIVE ACTION' DISCRIMINATION

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Belgium has outlined situations when Belgian employers can lawfully discriminate in favor of disadvantaged groups in a [royal decree](#) (French) published on 11 Feb 2019. The decree — effective immediately — details the procedures private sector companies must follow when adopting “positive action plans” to discriminate in favor of disadvantaged groups with the aim of reducing, eliminating or compensating for particular disadvantages:

- The disadvantaged groups must experience an obvious and incontestable inequality.
- The elimination of the identified inequality must be identified as an objective that the company will pursue.
- The measures taken must be proportionate to achieving the stated objective.
- The measures must be temporary (maximum three years' duration) and cease when the identified objective is met.
- The rights of other individuals must not be restricted.

Positive action plans require prior approval by the minister of employment, and employers must include the plans in either a collective bargaining agreement or a special resolution. Employers must communicate the provisions of the special resolution to the workforce and invite feedback within certain time frames. The decree supplements three antidiscrimination laws that took effect in 2007 and 1981 and replaces an earlier 1987 decree that targeted positive action in favor of women. Action plans approved under the terms of the old decree remain valid.

Companies may also implement positive action measures at their own initiative — these don't require ministerial approval but can be submitted to the ministry for information purposes.

RELATED RESOURCES

- [Royal Decree](#) (French) (Belgian official journal, 11 Feb 2019)
- [Law To Combat Certain Forms of Discrimination](#) (French) (Belgian official journal, 10 May 2007)

- [Law To Combat Discrimination Between Men and Women](#) (French) (Belgian official journal, 10 May 2007)
- [Law To Combat Racism and Xenophobia](#) (French) (Belgian official journal, 30 Jul 1981)

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