



Industrial relations and social dialogue
**Belgium: Institutions, policies and
practices for enforcing minimum
wage compliance**

*Minimum wages: Non-compliance and
enforcement across EU Member States
Comparative report*

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Eurofound reference number: WPEF23042

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Contents

1. Legal framework and minimum wage enforcement institutions	1
Regulation of minimum wage enforcement.....	1
Enforcement institutions and coordination system in place.....	1
Resources and capacity of control/enforcement institutions in charge of MW compliance	2
2. Enforcement measures	2
Deterrence measures	2
Persuasion/preventive measures	3
3. Role of social partners and other stakeholders	3
Social partners	3
Role of other institutions/stakeholders.....	3
EU cooperation.....	4
4. Enforcement challenges, strengths and weaknesses of the enforcement system	4

1. Legal framework and minimum wage enforcement institutions

Regulation of minimum wage enforcement

LEGAL/REGULATORY FRAMEWORK	<p>There are two types of minimum wages:</p> <p>1) the national minimum wage: a national collective bargaining agreement applicable to the private sector and which refers to the average labour income over a year.</p> <p>2) the sectoral minimum wages: wage floors determined by collective bargaining agreements. Almost all workers are covered by sectoral minimum wages, with much variation between sectors.</p> <p>Collective agreements are legally binding by the Act on Collective Agreements of 5 December 1968. Wages are protected by the Act on Wage Protection of 12 April 1965.</p>
SPECIFIC REGULATIONS	<p>Minimum wage enforcement is a federal competence, but labour inspectorates are organised by region and or sector (for transport). Other specialized sections are formed to focus on particular sectors or activities, for example, inspection of temporary work agencies, or for specific groups of workers, for example, inspection of the rights of foreign workers.</p>
DISPUTE RESOLUTION MECHANISMS	<p>Workers signalling infringements to the inspectorates are legally protected by the Law of 4 August 1996 (<i>on well-being of workers in the performance of their work</i>) with respect to adverse treatment. A collective appeal by the trade union may overcome the individual exposure.</p>

Enforcement institutions and coordination system in place

ENFORCEMENT INSTITUTIONS	<p>The SIOD/SIRS (<i>Social Information and Investigation Service</i>) deals with all aspects of social security and employment regulation. Its main competence is fraud detection and it is the overarching institution that unites all social inspectorates and coordinates joint actions.</p> <p>Labour Inspectorates (<i>Contrôle des lois sociales</i>) are organised at regional level and carry out inspections, including on MW, working hours and conditions. Labour inspectors may do hearings, access private premises and hand out fines, among other powers.</p> <p>Labour courts deal with all aspects of labour law, including minimum wages. The Labour Prosecutor can carry out legal persecution for non-payment of wages, but it is very rare.</p>
INTERNAL ORGANISATION	<p>The 24 labour inspectorates include: 21 subdivisions, a Dutch and a French-speaking subdivision for the transport sector, a German-speaking subdivision.</p> <p>There are nine Labour Courts, following the same circumscriptions as the Courts of Appeal.</p> <p>The SIOD is a federal platform and provides support for federal labour inspections as a coordinating structure using the so-called "<i>arrondissement units</i>": each is a body (and forms a unit of the SIOD/SIRS) set up by the judicial district and chaired by the Labour Prosecutor, for structured collaboration between the federal work inspectorates and different authorities – judicial, police, finance.</p>
COORDINATION	<p>The SIOD/SIRS is specifically designed to improve coordination between the various parties involved in fraud prevention. Coordination has increased as the SIOD was reinforced in 2016 and 2018.</p>
MONITORING AND DATA COLLECTION SYSTEM	<p>The labour inspectorates present annual reports including information on the number of files and consequences for all laws they inspect.</p>

Resources and capacity of control/enforcement institutions in charge of MW compliance

FINANCIAL RESOURCES	N/A Trend: stable (increase announced).
HUMAN RESOURCES	- Overall staff of Labour Inspectorate: 351 staff members in 2018, declined from 400 staff members in 2008 (- 12.2%). - Staff devoted to activities dealing with the Minimum Wage: 291 inspectors in 2018, increased from 275 inspectors in 2008 (+5.8%) Considered not adequate. Further Increase in staff announced.

2. Enforcement measures

BALANCE BETWEEN DETERRENCE AND PREVENTIVE MEASURES	<ul style="list-style-type: none"> • The main approach is preventive: wage setting is mostly consensual, certainly at the sectoral level. Also in the National Labour Council, the fact that both social partners agree on the minimum wage almost secures its acceptance. • Deterrence measures are partially effective. Actions are effective, but there are not enough interventions. A main weakness is the understaffing of the labour inspectorate. In addition, sometimes sanctions are not imposed and different social inspectorates have their varying standards of strictness. • Preventive and persuasion measures are highly effective. Strength: common interest of trade unions and employers' federations to "take wages out of the competition". Weakness: slow processes: updating the national minimum wage in real terms has taken more than ten years. • In order to address these weaknesses, a new minimum wage website was implemented to provide transparency with respect to the pay levels and job categories of workers.
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Deterrence measures

TYPE OF MEASURE AND CHANGE IN USE IN THE LAST DECADE	Spot checks, inspections by requests, inspections targeted to specific sectors/territorial areas, follow up of previous offenders, data matching and sharing of information remained stable over time; Routine inspections increased.
INSPECTIONS AND VIOLATIONS	- Number of Inspections: 3,662 files on wage protection in 2018, declined from 3,796 files on wage protection in 2008 (-3.5%) - Number of Violations: 5,213 violations of wage protection in 2018, increased from 4,318 violations of wage protection in 2008 (+20.8%)
SANCTIONS	Sanctions depend on the gravity of the offence: - Level 1: 80€ - 800€ for administrative offence. - Level 2: 200€ - 2,000€ for administrative offence, 400€ - 4,000€ for criminal offence. - Level 3: 400€ - 4,000€ for administrative offence, 800€ - 8,000€ for criminal offence. - Level 4: 2,400€ - 24,000€ for administrative offence, 4,800€ - 48,000€ for criminal offence, 6 months - 3 years of imprisonment.

Persuasion/preventive measures

TYPE OF MEASURE, INSTITUTION IN CHARGE, CHANGE IN THE LAST DECADE	Measures: research on wage policies to social partners by The Central Economic Council; Database of minimum wages by Federal Public Service Employment, Labour and Social Dialogue (FPS ELSD).
ROLE OF DIGITAL TOOLS	<p>Important role of digital tools: the social security administration uses digital registration of working days (DIMONA for Belgian workers and LIMOSA for foreign workers).</p> <p>The FPS ELSD has developed a website with full and publicly available information about minimum wages.</p> <p>COVID did not affect the digitalization.</p>

3. Role of social partners and other stakeholders

Social partners

ROLE + FOCUS ON SPECIFIC SECTORS/TERRITORIES/WORKERS	<p>Trade unions can legally support workers individually or take collective legal action against employers. They provide wage information and undertake collective wage negotiations in companies, but do not monitor individual wages of workers.</p> <p>Guidelines for campaigns by the SIOD for the transport, the metal, construction and sport sector have been developed together with the social partners.</p>
CHANGE IN LAST DECADE	No changes
COORDINATION	It is common practice that the SIOD and labour inspectorates work together with social partners to launch law enforcement campaigns.
STRENGTH/WEAKNESSES	<p>Strength: minimum wages are collective agreements: both social partners value the deal they have signed and want to protect workers' rights.</p> <p>Weaknesses: trade unions do not have direct access to their members pay slip, before issues escalate. In addition, in smaller companies and in new forms of work (platform, freelance), unionization rates tend to be low and non-compliance tends to remain undetected.</p>

Role of other institutions/stakeholders

OTHER INSTITUTIONS/STAKEHOLDERS	<p>Social partners are involved in all labour market related institutions and are represented in the board of directors of the social security administration.</p> <p>Their internal role is to provide information and guidance.</p>
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EU cooperation

EXAMPLES OF EU COOPERATION	European Labour Agency (ELA), IMI, Bi-lateral and multilateral agreements with France, Luxembourg, Portugal, Romania; BENELUX. It is also part of “The European Platform for tackling undeclared work”.
CHANGE IN LAST DECADE	The ELA, the Posted Workers Directive, the EU Mobility Package, the IMI and the platform for undeclared work are all recent activities.
STRENGTH/ WEAKNESSES	Strengths: the ELA, the Mobility Package and some bilateral agreements are well known and solve a real problem. Weaknesses: the shortage of inspectors. For some labour law violations, the absence of complete information from other countries leads to sanctions based on estimations.

4. Enforcement challenges, strengths and weaknesses of the enforcement system

MAIN ENFORCEMENT CHALLENGES	<p>There are difficulties in tracing platform work and pseudo-self-employment.</p> <p>Informal work remains common and it is difficult to trace it because of ‘invisibility’ of workers.</p> <p>There is an important understaffing of the labour inspectorates relative to the ILO norm of 1 per 10,000 workers.</p>
STRENGTHS AND WEAKNESSES	<p>The legal system allows for individual appeals to court and is easily accessible. In addition, trade unions can provide legal support to employees. The legal character of collective agreements is another strength of the legal framework.</p> <p>However, the formula for the calculation of the national minimum wage is complex, and the willingness to automate digital controls is limited. Still, the enforcement setup is well-organised and benefits from the SIOD coordination platform. Another strength is digitalisation, in particular real-time DIMONA and LIMOSA registration of national and foreign workers respectively, which facilitates controls.</p>

Source: National Eurofound Correspondent for Belgium

WPEF23042

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