Belgium: Developments in working life 2016

Developments in working life in Europe: EurWORK annual review 2016
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European Foundation for the Improvement of Living and Working Conditions

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Political context affecting working life aspects

The government(s) in office during 2016

<table>
<thead>
<tr>
<th>Federal Belgian government</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>In office since / to</td>
<td>October 2014</td>
</tr>
<tr>
<td>Name of the head of</td>
<td>Prime Minister Charles Michel</td>
</tr>
<tr>
<td>government (prime minister / chancellor / …)</td>
<td></td>
</tr>
<tr>
<td>Name all the parties that are forming this government</td>
<td>N-VA, MR, CD&amp;V, Open VLD</td>
</tr>
<tr>
<td>List the changes in the composition of the government in 2016</td>
<td>none</td>
</tr>
</tbody>
</table>

Elections and referenda

<table>
<thead>
<tr>
<th>Social Elections</th>
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</thead>
<tbody>
<tr>
<td>When did the elections take place?</td>
<td>9 to 22 May 2016</td>
</tr>
<tr>
<td>What kind of election it was? (parliamentary / presidential / referendum / local / …)</td>
<td>Four-yearly elections of employee representatives at the enterprise level.</td>
</tr>
<tr>
<td>Outcomes of the election (mention also % of the votes achieved by the major participants in the election)</td>
<td>ACLVB: 12.32% ABVV: 34.93% ACV: 50.98%</td>
</tr>
<tr>
<td>Additional comments</td>
<td>Participation rate of 63.5% for works councils and 65.4% for health and safety committees</td>
</tr>
</tbody>
</table>

Forthcoming significant elections or political events in 2017

None

Reactions from the social partners on new government’s working life policies

Not applicable

Developments in social dialogue and collective bargaining 2016

Major developments in national/peak-level social dialogue 2016

Changes affecting the social dialogue actors and institutions in 2016

Representativeness

A frequently debated topic was the minimum level of service for public transport during strikes. Flemish regional minister of Mobility Weyts is in favour of this measure, which would
make it possible to oblige a minimum amount of drivers to work in case a strike would occur. Unions strongly disagree with the notion, as this would reduce their bargaining power. As a result many of the initial propositions by minister Weyts have been removed from the proposal. In the final draft that has been presented to the board of directors drivers that are willing to work despite a strike will be deployed on the most critical bus lines instead of their regular lines.

The minimum level of service has been discussed with regards to railway transport as well. It was one of the topics in the coalition agreement and thereby the subject matter for federal minister of Mobility Galant and her successor Bellot. Both have tried to come to an agreement with the unions, however they continue to refuse any measure that would restrict their right to strike. Minister Bellot is currently exploring alternative scenario's.

**Major developments affecting the main actors**

In November, federal minister of Mobility Bellot released a policy note that redefines what representative and licensed trade unions have to be in the context of the national railway entities. A minimal number of members and representation on a national level are introduced as new requirements. This has repercussions on two smaller trade unions consisting of train drivers, namely OVS and ASTB. They will be able to remain active in the future, they are however barred from starting strikes. Members that do strike on behalf of either OVS or ASTB are performing illegal wildcat strikes. Both unions fear they will lose strength because of the loss of an important way to voice their disagreements.

**Legislative or institutional changes to the main social dialogue institutions**

The social security and the industrial relations system in Belgium are entwined at various points, with e.g. trade unions having a role in the administration of welfare benefits (quasi-Ghent system) and the social partners having advisory and controlling function at various points in the social security system.

This link is a recurring source of debate, esp. with the current center-right federal government in which two of the three coalition partners (N-VA & Open VLD) are highly critical of the role of trade unions, as well as the level of social security expenditure.

The most recent example is the proposed installation of an administrative commission that during each budgetary agreement will evaluate certain “responsibilisation criteria” (e.g. combating social fraud, sufficient budget reforms, etc.) before the State will commit to the default public funded part of the social security budget. Trade unions and health services are protesting, labelling it a move to extend government control over employer and employee contributions and an indirect push for cuts in social security. Employer organisations are positive, and government officials argue it is a necessary measure to evaluate public spending.

**Changes in the social dialogue processes**

No major changes

**Main social dialogue topics and outcomes in 2016**

<table>
<thead>
<tr>
<th>Themes</th>
<th>Description of issue</th>
<th>Main result</th>
</tr>
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<tbody>
<tr>
<td>General labour market topics</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job creation, reduction of unemployment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Active labour market policies</td>
<td>Benefits (unemployment, sickness schemes)</td>
<td>Taxation and non-wage related labour costs</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------</td>
<td>------------------------------------------</td>
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<tr>
<td></td>
<td><strong>ACV negotiated</strong> with Minister of Work Peeters with regards to 3000 unemployed with reduced working capabilities and/or medical/psychiatric problems at risk of losing their benefit.</td>
<td>No major issues debated by bipartite committees but much discussion within the government with regards to a <strong>tax shift</strong>. The main goal is to relieve tax pressure on labor.</td>
</tr>
<tr>
<td></td>
<td>In November Minister Peeters agreed with the worries voiced by the ACV delegation. He stated he will look for a solution for the urgent matter.</td>
<td>Several measures have been agreed upon and are being implemented.</td>
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</tbody>
</table>
### Belgium: Developments in working life 2016

<table>
<thead>
<tr>
<th>Terms and conditions of employment, including different forms of contracts</th>
<th>No major issues debated in this area.</th>
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</thead>
</table>
| Health, safety and well-being at work | 1) After elaborate debate between social partners and the government the National Institute for Health and Disability Insurance starts monitoring doctors if they declare employees incapable of working too soon.  
2) The general goal of the much debated law for workable, flexible work is to improve the workability of people’s jobs and increase work-life balance.  
1) The measure has been implemented on 1 October 2016. Trade unions remain skeptical.  
2) Some measures in the law are finalized, others are still being discussed. |
| Work-life balance related themes, incl. family leaves | Another legal framework created in the workable, flexible work law is sporadic telework when certain unforeseen occasions arise (i.e: doctor’s appointment).  
The proposal has to be agreed upon on both company and sectoral level. |
| Skills, training and employability | 1) Training is being revised in the workable, flexible work law as well. The amount of training is no longer prescribed in % of total wages. Instead a guideline has been introduced of 5 days per employee per year. If this no agreement on either company or sectoral level, the employee is entitled to 2 days nonetheless.  
2) (Regional) Agreement between trade unions and employer’s confederations with regards to training and education. Including measures that stimulate low-skilled employees and job seekers to follow training and improve their prospects on the labor market (incl. training credit, training vouchers, awareness campaign).  
1) Proposal has to be agreed upon on both company and sectoral level.  
2) Both parties want to start up a task force and set up concrete and binding arrangements. |
Examples of selected significant social dialogue debates

Interprofessional agreement

In mid-November 2016 the biannual wage agreements started. The interprofessional agreement between unions and employers settles the wage and employment conditions for employees in the private sector.

Recently the wage law dating back to 1996 was revised. Apart from looking at the rise in wages in neighbouring countries, developments in wages in the past will also be taken into account. This has restrained margins for negotiations between social partners, because more external factors have to be taken into account.

Especially the Christian trade union ACV stated its discontent and put forward demands. ACV demands guarantees that the measures taken will produce extra jobs, increase purchasing power and improve workability for employees.

The Central Economic Council calculated wages would be able to rise between 0.9 and 1.2% in 2017-2018. Employers preferred to limit the rise to 0.9%, especially considering the recent expectation of higher inflation rates. Trade unions on the other hand were resolute in increasing wages as much as possible and demanded a 1.2% raise.

Nevertheless both parties were willing to discuss the matter. Trade unions in particular, if negotiations would fail the decision would be taken by the government, which in their opinion would lead to unfavourable results.

Negotiations were turbulent, at first an agreement seemed at hand relatively quickly. But due to a sudden expected rise in inflation the first effort failed abruptly. For several weeks a compromise seemed far away until mid-January 2017, when a rise of maximum 1.1% over the next two years (above the automatic wage indexation) could be agreed upon after all. The norm has now to be applied and implemented by sector bargaining and agreements.

Both parties are satisfied with the compromise. Trade unions view the outcome as a compromise but one which is viable. Several employer representatives responded they see the agreement as important to maintain stability and social peace.

‘Law for Workable, flexible work’

In April 2016 the government requested the social partners to discuss the measures in the proposal for the “Wet Werkbaar Wendbaar Werk” (lit. “Law for Workable, flexible work”). Especially the annualization of working hours was an important topic for debate. This would essentially replace the traditional 38-hours workweek by a system that increases flexibility in the amount of hours an employee is allowed to work each week. In busier periods the employee would be able to perform up to 50 hours per week at a maximum of 11 hours per day. In less busy periods it would be possible to perform less.

Trade unions are sceptical of the proposals by minister Peeters. They state the annualization and how overtime is counted would mean a return to the old 40-hours workweek system. Currently the standard working week duration is 38 hours in Belgium. In their opinion the...
annualization and several other of the measures would lead to a deterioration of the work-life balance of employees.

Employer representatives on the other hand find certain measures to be insufficient and too expensive for employers to be implemented.

After several attempts both parties failed to reach an agreement. Nevertheless, Minister Peeters stated he will continue to implement the law. Even then the proposals have to be agreed upon by social partners on both the sectoral- and company level.

**Sectoral and company level social dialogue 2016**

General policy notes of minister of Work Peeters state the fields of authority of the joint committees are not adapted to the new economic reality and no longer a reflection of the company organisation and new production processes. Several of the joint committees have not adapted their fields of authority since the seventies or eighties and require updating.

Between 1st of January 2015 and 31 March 2016 5 fields of authority of joint committees or joint subcommittees have been changed. The changes mainly consist of the merging of older subcommittees and discontinuing of some of them. (Source: report on sectoral bargaining 2015-2016)

**Main developments - other than wages and working time - from important collective agreements or bargaining rounds**

An agreement was being made in the temporary employment sector with regards to a full end of year bonus. 8.33% Of the total annual salary will be paid if the employee has worked for an entire year with the company. If the employee has longer working days, he/she will be eligible sooner in the year.

**Examples of innovative collective agreements (at any level) made during 2016**

After several years an agreement was made between social partners with regards to the Law Major. The law states that employers in Belgian harbours are obliged to select authorized dockworkers to perform dock work. Certain employers in the Antwerp harbour filed a complained to the authorized euro commissioner because they believe not every job in the harbour requires dockworkers.

The adapted Law Major introduces a less rigid regulation for the usage of dockworkers, in some cases it will now be possible to recruit outside of the dockworker pool. In a referendum a large proportion of the dock workers agreed with the new law.
Belgium: Developments in working life 2016

Policies and actions to address pay-inequalities

The recent public debate on pay gaps at the workplace

As Belgium has one of the most compressed wage distributions, pay gaps issue are not a major issue.
With regards to pay inequalities related to individual characteristics the wage gap between men and women has been as in previous years a recurrent topic for debater. In June/July the 6-8% wage gap between men and women was topic for debate. The issue was brought under the attention because of the release of the yearly gender wage gap report. The report also showed a significant difference in fringe benefits between both genders.
In September the fact that men are better payed than women from the moment they start their career was subject for discussion in popular media. The main cause for is proven to be the difference in job choice, whereby women more often choose for jobs in less well paid sectors (e.g.: healthcare) than men. However a certain degree of discrepancy between wages within the same jobs is still being caused by subjectivity on behalf of the employer.
In the debate on getting or keeping more older workers into work, again an old debate is focusing on the seniority-related pay rises that are still a dominant feature of the wage formation in the country. But again, no new policy initiatives have been developed.

Positions regarding the posted workers directive

Positions of trade unions

Social partners views can be read in the advice on the matter of the National Labour Council. According to the European directive, member states are obliged to introduce a form of liability arrangement with regards to due wages for subcontractors. This in order to reduce fraud between client, contractor and subcontractors and guarantee that the posted worker will receive the correct remuneration. In order to comply to the directive the Minister of Work has drawn a new bill that adds new liability clauses to the already existing liability rules.
However, contractors are able to opt out if they provide a written statement by the subcontractor that he/she will pay the owed wages. Trade unions state they think the possibility to opt out is far too easy and undermines the efficiency of the measure to combat fraud and social dumping. They also believe the system is to complex and difficult to implement, especially in the construction sector where there are now 3 types of liability for employers to take into account. In their opinion the new special liability measures do not provide any added value. They fear the option to opt out will become a formality. They therefore demand the generalisation of the liability arrangement across all sectors and the entire chain of subcontractors. On top of that they demand specific liability rules for temporary employment as there are already some mixed forms of temporary work and subcontracting.

Positions of employers organisations

Employers organisations requested some adjustments in order to maintain legal security for all employees and employers. They also criticise the increased complexity the additional measures add to the system. Whereby it would be difficult for companies to know which rules apply to their subcontractors. In contrast to the trade unions, the employer’s confederations are satisfied with the option to opt out. They however raised some issues with regards to the special joint liability in case one of the contractors goes bankrupt. On top of that the bill introduces an independent right of action for employers and employee representatives to act on behalf of the posted worker(s) and start up judicial or administrative procedures if they agree to do so. The employer’s confederations fear this could lead to cases where trade union representatives act autonomously, which in turn constitutes an increase in power for the unions.
Position of the government

CD&V the Christian democratic party and member of the current government agrees with the proposal by commissioner Thyssen. However, federal minister of Work Peeters states further work is necessary, especially false self-employment is an issue that requires further attention. Open VLD, the Liberal democratic party states a similar opinion and believes the proposal is only a first step in the resolution of an high priority issue. Secretary of State for combating social fraud Tommelein sees the collection of social security contributions in the host country as a necessary additional measure. On top of that the duration of detachment in fraud sensitive sectors (e.g.: construction) should be reduced further to 6 months.

Pay gaps at the workplace

Evidence

One of the main national studies with regards to pay inequality between men and women is the annual gender wage gap report. The report is being compiled by the institute for equality between women and men and several government agencies. The study addresses many different aspects of wage inequality between men and women. Therefore a lot of conclusions are being drawn, mainly:

- In 2013, the wage gap based on hourly wages estimated 8%
- In 2013, the wage gap based on yearly wages was 21% (the effect of difference in fulltime and part-time work is much more obvious when considering yearly wages instead of hourly)
- There is a slight difference between statutes based on hourly wages, whereby the wage gap between white collar workers is approximately 3% larger than is the case with blue-collar workers - Based on yearly calculated wages the gap estimates 37% for blue collar and 32% for white collar workers
- The wage gap in fringe benefits is significant as well. Female employees have a reduced chance of receiving this kind of benefits and they are generally smaller.
- The employment rate has risen for female workers between 2012 and 2013 and decreased for male employees. Since 1999 the employment rate has been stable for male workers and has increased significantly for women.
- In general the gender wage gap declines throughout the years.
- The gender wage gap increases with age.
- As the level of education increases so does the gender wage gap.
- Employees originating from countries outside of the EU suffer from lower employment rates than native Belgian employees. Adding to this ethincal gap a significant gap in employment between both genders exists here as well. Whereby 47% of men originating from outside of the EU are working and only 28% of women.

Other studies that focus on pay gaps on a national level have been released as well. The first discusses the effect of the strong Belgian social concertation model with regards to pay gaps. Whereby the extensive social concertation can be seen as a stabilizing factor. The fact that almost all Belgian workers are being covered by collective agreements plays a crucial role. Because of this Belgium performs reasonably good on both wage equality and gender equality. However, with regards to inequality because of a different cultural, ethnic background, Belgium scores considerably less. (Marx, I., Van Cant, L. (2016). Belgium: Robust Social Concertation Providing a Buffer against Growing Inequality? Part of Inequalities and the World of Work: What role for Industrial Relations and Social Dialogue - ILO)

Another study looks at the impact of the height of minimum wages on inequality in a Belgian setting. The main conclusion is that, in contrast to some previous studies, higher minimum wages reduce both lower-tail and overall wage dispersion. (Vandekerckhove, S., Goos, M., & Van Gyes, G. (2014). Reassessing the impact of minimum wages on wage dispersion and employment: evidence from an institutionalized wage bargaining system.)
The aforementioned gender wage gap report from 2016 report proved wage inequality between both genders still exists on the Belgian labour market. An improvement of approximately 1% was observed in comparison to the previous edition. According to the report Belgium scores better than the European average, the gap seems however to be deeply rooted in the Belgian system and will continue to exist for a considerable amount of time.

Policies to address pay inequalities at the workplace
The royal decree of 25th April 2014 builds upon the framework created by the law of 22th April 2012 to combat the pay gap between men and women. The new decree defines the content and structure the forms (documents) have to follow to achieve a more uniform way of reporting the remuneration structure across all companies larger than 50 employees. The form serves as a base for the analysis of the remuneration structure of the employees. Companies with at least 50 employees are from now on obliged to perform such an analysis. The analysis should point out if the remuneration structure or wage policy of the company is gender-neutral. The result of the analysis has to be transferred to the works council. The law of 22th April 2012 already included the obligation for companies larger than 50 employees to make a detailed analysis of the remuneration structure of the company. Both the law and royal decree are specifically targeted at the gender pay gap.

Social partner's involvement in addressing pay inequalities at the workplace
Christian trade union ACV has launched a campaign to raise awareness for the issue of unequal wages between men and women as well as inform their members on how to be aware and improve the situation in their workplace.
ABVV performed an action together with female rights organisation zij-kant to raise awareness for the still existing wage gap between men and women.
On the company level the trade unions address pay inequality as well. If as a result of the analysis of the remuneration structure pay inequalities between men and women exist in a company, the works council (of which trade union representatives are members) is obliged to look into the issue and prepare a plan of action if needed. If necessary a mediator can be appointed as well.
Promoting the reconciliation of working families and caregivers

Recent policies
The proposal for the new workable, flexible work law drafted by Minister of Work Peeters in 2016 (NL: “Wet wendbaar werkbaar werk”, FR: “loi sur le Travail Faisable et maniable”) contains several measures that aim to improve the situation of families with care responsibilities.

One of the measures that is being worked on is the implementation of a system that allows employees to donate leave days to colleagues if they have to look after a sick child. Only leave days that fall outside of the legal 20 days are eligible, the donation happens anonymously as well. The employee in demand of the additional leave days files a request with the employer. On the other hand employees that are willing to donate leave days have to inform the employer as well, so he can arrange the donation. In the end the final procedure can vary between sectors, as a lot of elements are up for discussion on both the sectoral as company level.

In February 2017 the proposal has been accepted by the government. However, not all measures will be implemented at the same time. Some measures will be active from the start. While others will only be introduced later in the year or still require a sectoral agreement.

Another measure seeks to increase the amount of time credit for care. Whoever has to take up time credit in order to take care of a sick child or family member is able to do so for 51 instead of 48 months. There are several forms of time credit for care. The employee can choose to stop working entirely for 51 months, reduce their working time by 50% or work 4 days instead of 5 days per week.

The main condition to make use of time credit for care is that the employee is active for 2 years at the current company (certain exceptions apply).

Palliative care leave (leave with the specific purpose of taking care for a person with an incurable disease) will be extended by 1 month, this period can be extended again for 2 times by a month. Because of the new measure the palliative care leave can be extended 2 times (in total 3 months), previously it could be extended 1 time so 2 months in total.

Rights to request special working time arrangements, place of work etc.
Another legal framework created in the workable, flexible work law is sporadic telework when certain unforeseen occasions arise (i.e: doctor’s appointment). Previously only a legal framework for structural (recurrent) telework was possible. With the new arrangements for sporadic telework some previously unclear legislation (expenses or work accidents during sporadic telework) is now better framed and described by the law. It is a right for the employees, if the nature of the job allows it.

The role of collective agreements
The sectoral negotiations report summarises the main outlines of sectoral negotiations between January 2015 and March 2016. Despite some scepticism stating negotiations on the company level has increased over the years, the sectoral level still remains relevant and important up to this day, approximately 1400 collective agreements on a sectoral level were concluded in 2015 and 5500 on a company level.

Seniority days
Seniority days are generally awarded to employees after 5-10 years of seniority. The precise regulation is defined in a collective agreement and is mostly based on sector- or company seniority. Between 2015 and March 2016 in 8 joint (sub)committees (there are 170 in total)
the amount of seniority days was raised or entitlement conditions loosened. The main goal of seniority days is to facilitate older employees to remain active longer.

**Unemployment with company supplement (prepension)**

Unemployment with company supplement (UCS) is a special system aimed at older employees. It deviates from a regular pension in that the employee is dismissed but receives an employment benefit and an additional supplement paid by the employer.

In 2015 the decision was made to reduce the system of UCS in order to achieve an employment rate of 50% for employees between 55-64 years old by 2020. Because of this the eligible age to benefit from the measure has been raised from 60 to 62. On top of that men have to prove to have worked for 40 years in their entire career, women 31 (for women this required amount of years will rise to match that of men by 2024).

In 2015 in total 284 collective agreements with regards to UCS were concluded, between January and April 2016 a total of 80. 122 Joint committees have a collective agreement with regards to UCS, the majority (98%) has signed the collective agreement that follows the 60/40* system, however a significant amount has signed collective agreements with alternative systems as well (ex: 58/35 for heavy labor is 46,72% and 58/33 for night work is 63,11%)

**Time credit**

Collective agreement 103 regulates the system of time credit and allows sectoral and companies to build upon the framework. Collective agreement 118 lowers the eligible age for the so called ‘landing strip’ for older employees, employees in heavy jobs or companies in difficulty. In 2015 69 collective agreements 103 and 65 nr. 118 were registered, between January and the end of March 2016 8 collective agreements 103 and 5 collective agreements 118.

When looking into the content of the collective agreements, the majority continues to follow the same conditions and eligibility clauses. 98 Joint committees have reduced the maximum duration of motivated time credit to 36 months, 11 committees to 24 months and 3 for 12 months. In some sectors some eligibility conditions have been added.

*Age of 60, 40 years seniority

**The landing strip is a measure that makes it possible for employees to transfer to a part-time or 4/5 schedule in order to facilitate them to work longer.
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