

Industrial Relations

Belgium: Developments in working life 2018

Working life in 2018 – Annual review

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Political context affecting working life aspects

As was the case in 2017 the centre-right government in Belgium for most of 2018 consisted of the Flemish nationalist party N-VA (NL: Nieuw Vlaamse Alliantie), Flemish liberal party Open VLD (Open Vlaamse Liberalen en Democraten), Walloon liberal partv MR (Mouvement Réformateur) and Christian Democratic CD&V (Christen, Democratisch & Vlaams). Whereas in previous decennia the trade unions could count on a significant number of allies within government from socialist parties like S.Pa and PS and Christian democratic parties like CD&V and CDH, this is far less the case now, with only CD&V having direct connections with the trade union movement. This severed connection also means that the unions are less able to influence political decision making through their network as was possible in the past. Leading to confrontations on a regular basis between the government and the trade unions, as the latter believe the centre-right wing government often fails to make decisions that benefit employees (for instance, changes in pension schemes for civil servants). The employers' associations seemingly have more allies in government. This in turn however sometimes leads to frictions between social partners as well, as trade unions are under the impression that the government favours the point of view of the employers' more often than theirs. Apart from the strikes and actions organised by the unions to criticize the policy of the government (for instance, strikes in December), this increased tension also often leads to significant delays in bipartite discussions between social partners (for instance, discussions on heavy labour).

In the final weeks of December, after weeks of heavy discussions within government and parliament regarding the signing of the UN migration pact in Marrakesh, the Flemish Nationalist party N-VA decided to resign from government. After 10 days this would eventually lead to falling of the government after a motion of distrust by socialist and green opposition parties. At the time of writing the two options for the current government are to either continue as a government in current affairs until the elections in May 2019, the alternative is to hold preliminary elections before May. It is most likely that the government will continue in current affairs as few parties are active proponents of early elections. However, the situation remains unclear.

Labour market reforms or major packages of working life regulations

In the summer of 2018 the so called 'Arbeidsdeal' was agreed upon within government, which consists of several measures to improve employment within the country, namely:

- Reform of the unemployment system, with an increase in unemployment benefit in the first months of unemployment but faster reduction afterwards.
- Stricter application of early retirement schemes combined with more efforts by the unemployment services to activate those that choose to retire early.
- Introduction of the mobility budget, which in theory allows employees to choose more freely in what way they spend money that would in most cases be used for a company car.
- Further detachment of wages based upon age and instead on competences and productivity.

However due to the problems that are currently going on within the government, the implementation of the measures – which were foreseen for January 2019 – is postponed indefinitely. As some points are already under scrutiny by some political parties, it is possible that the deal will not be implemented after all and instead some of its measures will be voted on within parliament.

Social partners' views and reactions on changes in governments and working life policies

Trade unions continue to be critical of the previous/current centre-right government as they believe many of the austerity measures they propose do not benefit employees and the unemployed but are beneficial for employers.

The employers' associations are concerned the current political instability will have its impact on the Belgian economy leading to a reduction in growth or even stagnation. VBO chairman Timmermans stated that preliminary elections would be the worst possible scenario for the country, as it would hinder important decisions in working life they still hope to make in coming months (wage agreements, mobility budget, labour deal, reforms in business law, etc).

Developments in industrial relations 2018

Changes affecting the national-level actors and institutions in 2018

Actors

There were no significant changes concerning any of the actors within social dialogue.

Representativeness

There were no significant shifts in representativeness or how it is regulated or assessed. The next (four annual) social elections take place in 2020.

Institutions

There were no significant changes to the main social dialogue institutions.

Changes affecting the sectoral and company level social dialogue 2018

There were no major changes in 2018 in the legislation, the institutions or the practice affecting collective bargaining and social dialogue at sector-level and company-level.

Innovation in collective bargaining

There were no major innovations in collective bargaining in 2018 to report.

National social dialogue in 2018 – Scope and Contribution

Theme	Description of issue	Social dialogue interaction	Social dialogue outcome and/or output
Employment - Addressing labour shortages	Minister of Work Peeters requested the social partners at the national level to formulate propositions to alleviate the mismatch that exists on the Belgian labour market whereby on the one hand a significant shortage in certain profiles exists while the degree of unemployment remains relatively high. If approved these measures would be included in the 'Labour-Deal'.	The chairmen of the representative social partners at the national level held a formal meeting within the Group Of Ten (the highest organ for social dialogue within the country) to discuss different measures both sides can agree with.	Social partners agreed upon a few main topics on which they provided their input. Re-integration of long term sick: in this regard the social partners want to facilitate the labour market participation of this specific group. Investing in lifelong learning programs (both in and outside of the workplace) as well as making changes in the current re-integration programs if necessary. Labour Market participation: in order to facilitate the re-integration of unemployed the social partners propose that employees are obliged to register with the unemployment services within a month after they terminated their employment contract. For the moment there is no timeframe specified to do so. They plead to allow unemployed to continue to receive benefits while following certain trainings or education. Diversity: The government has to implement additional measures to combat discrimination on the labour market and improve diversity. Additionally, they stated to further investigate ways in which the unemployment system can be changed in order to alleviate the current labour market shortages. This intent remained rather vague as it is a difficult topic of discussion for the social partners to agree upon.
Skills - Digital skill	In Flanders the social partners have agreed upon an action plan to aid in the general lack of ICT/IT profiles on the labour market. They state that every employee has to become a form of ICT professional. The SERV (Social Economic Council of Flanders) emphasizes the need to invest more in the adaptation of education, labour market and economy to the digital economy.	Formal negotiations/discussions within the SERV.	Joint statement formulated after formal negotiations/discussions.
Benefits - Reform of unemployment benefits	Unemployment reforms have been a significant topic in 2018 as part of the labour deal. The most significant (and most debated) reform in that regard is the proposal to make the degressivity of the unemployment benefits more strict/efficient (strict according to the opposition and unions and efficient according to the government). This would make them be higher initially but reducer quicker over time, urging people to start their search for a new job faster and more intensively after their previous dismissal. Especially the (former) government party N-VA is a strong proponent of a stronger degressivity, together with the employers' association VBO-FEB. The former launched their own proposal in parliament as they believe the reforms take too long. Critics, including opposition parties, trade unions and several academics are opposed and claim that the measure would end up costing money to the government, fail to achieve its goal to increase activation of unemployed and increase the unemployment trap.	Discussions and debate within the government with opposition parties and social partners expressing their views.	As is the case with many of the significant issues negotiated and debated throughout 2018 the issue has not been resolved or agreed upon yet and the timespan has become more unclear since the falling of the government. In theory the measure would have to be implemented in January 2019, this is however not the case (at the time of writing).

Theme	Description of issue	Social dialogue interaction	Social dialogue outcome and/or output
Taxation and social security contributions - Reform of taxation of pensions	Minister of Pensions Bacquelaine formulated a reform for the so called 'solidarity contributions' in 2019, a form of taxes (currently) applicable to the highest pensions. The tax was introduced in the 90's and was adjusted later on specified to be exempt for low pensions. Minister Bacquelaine plans to increase the level of the threshold for eligibility, making only the highest incomes subject to the tax. With regards to the proposed reform, the social partners state that the reform would lead to 84 million euro less in tax incomes for the government. Something they deem problematic considering the current budgetary context. Additionally they state that the measure was introduced to increase intragenerational solidarity between pensioners, a goal they believe is still relevant today.	Trade unions and employers' associations formulated a joint negative advice for the proposed measure.	The advice was delivered to the ministry. The reform will be implemented nonetheless.
Pension reforms - Early retirement	Discussions on the definition of 'heavy labour'. Jobs defined as heavy labour are able to retire at an earlier age. The measure acts as a compromise after the decision to increase the pension age to 67 and changes in the way pensions will be calculated in the future. This has been an ongoing discussion between social partners for the entire year. In the public sector the issues have been resolved, in the private sector however the situation has become increasingly more difficult.	Bipartite formal negotiations (for the public sector). The ministers of Work and Pensions requested the social partners to draft a list/system to determine which jobs would classify as heavy labour and therefore will be exempt from the regular pension scheme. Up until today trade unions and employers' associations have failed to come to an agreement.	Recently the government has appointed mediators to facilitate the process for the negotiations regarding the private sector. The situation has become unclear however, given that the government has fallen. It is up to the next government to decide if and how negotiations will continue and to what extent these will remain bipartite or taken over by the government.
Wage setting - Youth minimum wages	Starting the 1st of July 2018 the minimum regulation for employees under 21 years old was supposed to change for those that at least work at least 50% of full time employment. The goal of the regulation is to improve the labour market position of those that enter the labour market on a relatively young age without working experience. The regulation has to make it possible for employee to be paid below the minimum wage without him/her losing income. The main condition is that the employee would normally (without the reduction taken into account) be paid out at the rate of the sectoral minimum wage or if not present the GAMMI (statutory minimum wage). Important to note is that the reduction in wage the employer has to provide for the employee is compensated by the employer through lump sum payouts. In order to make op for the potential income loss for the employer, these pay-outs are exempt from social security contributions and withholding tax.	A formal discussion or agreement by the social partners is not necessary. Trade unions have however clearly expressed their criticisms on the system, stating that it will inevitably lead to a loss in income for young employees.	The introduction of the measure has been postponed due to the fact that the situation is more complex than initially expected requires additional differentiation. Due to the current governmental issues in Belgium it is unclear when the measure will effectively be introduced, but it is expected this will happen in the first quarters of 2019.

Theme	Description of issue	Social dialogue interaction	Social dialogue outcome and/or output
Working time - Working time flexibility	Discussions have been ongoing regarding working times within the retail and especially the e-commerce sector. For example when online clothing retailer Zalando decided not to establish their distribution centre in Belgium but in the Netherlands. Within the summer agreement of 2017 some more flexibility was introduced regarding night work within the e-commerce but those benefits are mainly addressed towards Belgian companies aiming to expand their e-commerce business rather than large international e-commerce players.	Ongoing discussions between social partners, political parties and other stakeholders.	Some steps have been undertaken throughout the years towards more flexibility, in 2018 no formalized changes in either legislation or laws.
Terms and conditions of Employment - Short-term contracts	On request by Minister of work Peeters the social partners within the National Labour Council performed a reevaluation of the practice of 'repeated day contracts'. Following the re-evaluation they adjusted collective agreement 108 and made additional arrangements to improve regulation of the matter. More concretely they put forward a reduction of at least 20% in repeated day contracts across 2018 and 2019.	Social partners negotiated formally within the National Labour Council	Social partners came to an agreement and formulated appropriate measures to address the issue.
Health, Safety and Well-being at work - Psychosocial health	Because the continuous raise in the figures of people leaving the active labour market due to psychosocial health problems, the Minister of Work Peeters announced the support for projects on organisational level in the battle against burn-out, as agreed on in the interprofessional agreement 2017-2018.	Negotiations between social partners on the national level within the National Labour Council (NAR-CNT), a bipartite institution.	This project was launched in 2018. Approximately 200 organisations and sectors applied for this call. The social partners in the NAR-CNT formulated an advice on the selection of relevant cases with learning opportunities. The implementation of the projects starts in 2019.
Work-life balance - Right to disconnect	In March a series of measures to improve the right to disconnect options for employees proposed by Minister of Work Peeters were approved. More concrete his aim was to make discussions and regulations on the right to disconnect options more negotiable on the company level within the health and safety committees (which are obligatory for all companies with at least 50 employees).	Law passed without social partners' involvement.	Law passed and implemented (6 September 2018) http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table _name=wet&cn=2018090612
Work-life balance - Foster and adoption leave	In September of 2018 the 'Law Amending the Rules aiming to Strengthen Adoption Leave and Introducing Foster Leave' was proposed and agreed upon within government. The law introduces important changes regarding leave for parents of adopted children and involved in foster parenthood.	Law proposed and agreed upon within government	The law will come into practice starting 1 January 2019.

Theme	Description of issue	Social dialogue interaction	Social dialogue outcome and/or output
Other - Remuneration in kind	Starting in 2018 the government launched the initiative cash-for-cars, which allows payments of up to €500 per month if employees choose to turn in their company car. Neither the employers' associations nor the trade unions are proponents of this measure and have requested more alternatives from the government.	Formal meetings between social partners within the National Labour Council and formulating a joint position on the issue.	Social partners have formulated an advice for the government regarding the issue and want allow for more flexibility in the form of a 'mobility budget'.

No major social dialogue debates were held on the following themes: Skills, training and employability; Taxation and non-wage related labour costs.

Selected major social dialogue debates

Labour Deal fails to be closed

The labour deal and the discussions surrounding it have continued throughout 2018 but failed to be finalised. The main goal of the entire deal is to increase the amount of jobs within the country as well as alleviate the problem of labour market shortages for specific profiles that are hard to find.

Especially the measures surrounding unemployment benefits continue to be a difficult part of the deal. More concretely the plan would let unemployment benefits decline faster over time as well as restrict the possibilities for employees to retire at an earlier age. Other elements of the deal would force dismissed employees to register more quickly with the employment services, make it easier for pensioners to have an additional income without fiscal repercussions and remove the possibility that an increase in gross pension would ultimately lead to a lower net pension.

The deal was agreed upon in the summer of 2018 but has not been signed. The falling of the government and the difficult relations within parliament has in turn jeopardized the possibility of that happening. The government in current affairs states that finalizing the labour deal is at the top of their priority list. It is however unclear if the deal will be signed, altered or split up into several different measures in coming months.

Discussions on heavy occupations fail to reach a compromise

The government plans to increase the legal pension age in a stepwise manner by increasing it to 66 by 2025 to 67 years of age by 2030. In practice, this means that every employee born before 1960 will be able to retire at the age of 65 years, those between 1960 and 1965 at 66 and all younger employees until 67. However, the 'heavy occupations' system has been devised to compensate for jobs for which this increase in pension age would be too strenuous. Those in jobs that are recognised as being 'heavy occupations' will be able to retire earlier, (with 60 as a minimum age).

Discussions about this proposed change have been ongoing for a significant period of time, with separate talks initially held for the public and private sector. However, after private sector discussions between employer organisations and trade unions failed to reach a conclusion, Minister of Pensions Daniel Bacquelaine decided to instigate planning reforms within the public sector.

Minister Bacquelaine and the private sector trade unions each developed criteria to determine which occupations would be considered 'heavy'. However, within the government, the New Flemish Alliance (N-VA) complained that the implementation of the list undermined the reforms that were initially planned. Prime Minister Charles Michel had to intervene in order to prevent the N-VA from prematurely ending negotiations. The decisions made by Minister Bacquelaine caused unrest with the private sector trade unions, which ultimately led to a strike on 16 May in Brussels. An estimated 80,000 trade union members came together to protest the proposed pension reforms, which the unions described as a form of budget cuts leading to the deterioration of working conditions for employees.

A key part of the overall debate involves the extent to which stress should be taken into account when determining the list of heavy occupations. Minister Bacquelaine is opposed to this notion, as it would make the list far too extensive. Decisions on a few specific occupations including teachers, military personnel and railway personnel have also caused bottlenecks in the discussion process. The three factors that ultimately determine if a job is a heavy occupation are physical effort, irregular working hours and unsafe working conditions. If one of these factors is present, a person's working year counts for 1.05 years, two factors counts for 1.10 years and three factors counts for 1.15 years. The system will come into effect in 2020 and only working years after this date will be taken into account (with a few exceptions). The plans for the public sector are well advanced and have been agreed upon by

both Minister Bacquelaine and public sector unions. However, the falling of the government has led to delays in that regard and the final decision will be up to the next government. Negotiations in the private sector are significantly harder and the outcome much more unclear. In November ministers Bacquelaine and Peeters assigned two mediators with significant experience in the matter to aid in the negotiations. However, little progress has been made in the past few months and the difficult political climate makes the situation even harder.

Unilateral government actions - without social dialogue

Revision of Renault Law

The Renault law dating back to 1998 was instated after the closure of the large Renault facility in Vilvoorde. The law has to facilitate and guarantees the provision of information for employees and representatives in case of collective dismissals and/or closure of a company as well as give representatives the possibility to negotiate the measures undertaken by the company management in case of such an event.

However, critics state that the law has failed to reduce the amount of collective dismissals but mainly made the entire restructuring process more complex.

In February of 2018 the Federal Minister of work Peeters proposed several reforms within the law. The main changes would be to take into account the interests of the subcontractors, make it possible for negotiators to act in a more preventive manner and allow employees to benefit from a social plan even though they are able to find other work. The minister stated that the law has to provide adequate protection for employees in those situations as well as give companies the possibility to restructure. The minister handed over his proposed changes to the social partners to negotiate. When those failed to come to an agreement or formulate a joint statement he urged them to do so as he: 'will not be able to wait indefinitely'.

Both trade unions and employers' associations agree that a modernization of the law is necessary, have significantly different points of view in this regard. By the end of July both partners released a statement that they still weren't able to reach a consensus. It is currently unclear if and when minister Peeters will take over the situation and bypass the negotiations (especially given the current political climate), the possibility does however exist.

Collective labour disputes in 2018

Changes in the regulation of collective labour disputes

There were no significant changes in the regulation of collective disputes in 2018.

Selected major labour disputes of national significance

NMBS (Nationale Maatschappij der Belgische Spoorwegen, ENG: "National Railway Company of Belgium): In Q1 railway workers at NMBS undertook several actions, including strikes, the main reason was the fear of employees at NMBS to not be able to benefit from the new (as of today not finished) regulation on heavy occupations.

Civil servants: large strikes were held in Q3 of this year by the civil servants because of proposed changes within the labour deal that reduces some of their benefits. Mainly changes in sick leave arrangements that they currently as well as making it easier for them to be dismissed.

Bpost: In Q4 several days of actions were held within national post service Bpost. Understaffing and increasing work pressure were the main elements that made unions decide to undertake actions (both strikes as negotiations). In total five days of strikes were held, leading to significant disruptions within their services. At the end of December an agreement was reached leading to a new collective agreement for the company for the coming two years. The agreement includes measures that improve the purchasing power of employees at Bpost as well the hiring of 1000 additional employees.

Working time 2018

Changes in the regulation of working time 2018

Legislation on working time duration or organisation

The Workable Work Law, which was agreed upon in 2017 formulates a framework for so called 'career saving' (a system that makes it possible for employees to save holidays days to use them later in their career). This part of the law has come into practice on the first of February 2018, from that day forwards it was possible within all different sectors (JC's) to implement it on a sectoral level through collective agreements within a timespan of six months. If no agreement can be reached the possibility exists for negotiations at the company level to take over. Employees are only able to benefit from the system if it has been concluded in a collective agreement on either of those two levels. The social partners were given the option to formulate an alternative which would be utilised instead if they would succeed to come to an agreement before 1 February 2018 (which they failed to do).

A new law from 15th of January 2018 modifies the regulations for overtime within the hotels, restaurants and catering sector (horeca). The law builds upon proposals from the Workable Work law in 2017 and allows for 360 voluntary hours of overtime (instead of the previous 100). These hours are not eligible for overtime pay but are exempt from taxes and social benefits so the employee is able to keep the entirety of his/her gross wage.

Collective bargaining outcomes on working time duration or organisation

There are no major collective bargaining outcomes on working time duration or organisation to report.

Major debates concerning working time duration or organisation

The shorter (30-hour) workweek has been topic for debate in media throughout the year and on some occasions mentioned by trade unions but no formal negotiations regarding the subject have been held. Employers' associations have sometimes replied, stating the current economic context makes the system unfeasible.

Health and well-being at work 2018

Physical working environment

There are no major developments to report regarding the regulation of the physical working environment.

Psychosocial working environment

In December an agreement between the Flemish social partners (except ABVV) was reached to establish an action plan to improve workable work. With the agreement the Flemish social partners and the Flemish government want to increase the efforts that are currently ongoing to improve workable work.

- The plan consists of 3 elements:
 Multidisciplinary knowledge building regarding workable work
 (improvement of the site: www.werkbaarwerk.be, actualisation of the
 workability monitor).
- Launching of a communication campaign as well as improving intersectoral information transfers regarding the issue.
- Motivate companies to monitor their workability (implementation of cheque of €10.000) to utilise for such monitoring at the company level.

Employment status 2018

No major changes in 2018 for: 'Standard' employment contracts; Self-employed; Fixed term contracts; Temporary agency workers; Posted workers; Seasonal workers and Zero hour contracts.

References

VRT.be (2018) Dit betekent de arbeidsdeal concreet voor u

De Tijd (2018) VBO: Belgische groei dreigt volledig stil te vallen

De Standaard (2018) <u>Sociale partners: Werklozen moeten zich sneller inschrijven bij</u> VDAB

VRT.be (2018) We moeten allemaal een beetje IT'ers worden

De Tijd (2018) Vakbondsacties tegen nieuwe regeling ziektedagen ambtenaren.

De Tijd (2018) Vakbondsacties tegen pensioenplannen tussen 10 en 14 december.

De Tijd (2018) Bemiddelaars moeten zware beroepen redden.

VBO-FEB.be (2018) <u>versterkte degressiviteit noodzakelijk voor een meer activerend</u> <u>werkloosheidsbeleid.</u>

Krispeeters.be (2018) <u>Hervorming werkloosheidsuitkeringen en arbeidsdeal geven boost aan activering.</u>

De Standaard (2018) Hervorming werkloosheidsuitkering heeft zeer negatieve gevolgen

De Tijd (2018) Snellere daling werkloosheidsuitke ringen riskeert negative budgettaire

Het Laatste Nieuws (2018) <u>Sociale partners geven Bacquelaine negatief advies over verlaging solidariteitsbijdrage</u>.

De Standaard (2018) Zware beroepen terug naar af.

De Morgen (2018) Overleg over zware beroepen crasht.

De Morgen (2018) België ziet distributiecentrum Zalando aan z'n neus voorbijgaan.

VBO-FEB.be (2018) Sociale partners bereiken akkoord opeenvolgende dagcontracten.

Lachambre.be (2018) Wetsontwerp houdende diverse bepalingen inzake sociale zaken.

Group S (2018) <u>Versterking van het adoptieverlof en invoering van een pleegouderverlof</u> vanaf 1 januari 2019.

Belgisch Staatsblad (2018) <u>26 MAART 2018</u>. Wet betreffende de versterking van de economische groei en de sociale cohesie.

FOD Waso (2018) Kamer keurt pakket werkmaatregelen van Kris Peeters goed

De Tijd (2018) Sociale partners pakken uit met alternatief voor Cash for cars

De Tijd (2018) Regering hoopt arbeidsdeal nog af te werken

De Tijd (2018) Toch nog geen groen licht voor Arbeidsdeal

De Tijd (2018) Tien onvoltooide werken van Michel die uw portemonnee raken

De Tijd (2018) Nieuwe-wet-Renault-laat-op-zich-wachten

Het Laatste Nieuws (2018) Kris Peeters wil wet Renault dit jaar aanpassen: "ik kan niet eeuwig blijven wachten".

FOD WASO (2018) <u>Het wettelijk kader voor het loopbaansparen treedt in werking op 1</u> februari 2018.

Wet betreffende werkbaar en wendbaar werk (2017, adjustments 2018)

ABVV (2018) 30-urenweek goed nieuws voor iedereen.

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ACV Openbare diensten (2018) <u>De 30-urenweek is betaalbaar.</u>

VOKA (2018) 30 Urenweek met loonbehoud vandaag economische onzin.

Sociaal-Econimische raad van Vlaanderen (2018) Akkoord actieplan werkbaar werk.

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