



New forms of employment

Employee sharing, Belgium

Case study 4: Policy analysis

Employee sharing is not common in Belgium. However, in some parts of the country, employer groups have gained some popularity. Employer groups organise employee sharing as intermediary organisations, and they are seen as a potential way of dealing with restructuring in major corporations.

Introduction

This report is a policy analysis of legislation on employee sharing and how it is practised in Belgium. More specifically it focuses on *groupement d'employeurs/werkgeversgroeperingen*, or employer groups.

The report discusses the main features and characteristics of the legislation introduced, the actual organisation and implementation of employer groups and their outcomes, as well as their key strengths and weaknesses and potential for transferability.

The report is based on available literature and documents about employee sharing and interviews with a variety of stakeholders. This report is also complemented by findings from a case study on an employer group in Wallonia carried out as part of this project – see case study 3: Job'Ardent.

Background and objectives of employee sharing in Belgium

In Belgium, systems of employee sharing are not very common. Employer groups, which organise employee sharing as intermediary organisations, are most commonly found in Wallonia and Brussels. In Flanders, employee sharing is more likely to involve co-sourcing – bilateral agreements between two companies to share one or more employees on a regular basis.

This report looks mainly at the first type of employee sharing, employer groups. An employer group is a non-profit organisation founded by several companies to share a common workforce. The company motive is either to deal with peaks of activity in its operations or to attract specific support staff despite a very small regular workload.

The key legislation which is most often referred to when systems of sharing workers are discussed is the Law on Secondment (Law on Secondment and Temporary Work), introduced on 24 July 1987. This law stipulates that the secondment or the temporary transfer of employees is forbidden. In other words, the law prohibits companies from putting their

employees at the disposal of another company or transferring their employer authority over an employee to another employer, unless they are temporary work agencies.

There are, however, some exceptions to this general rule both in the law itself and in an additional law concluded on 12 August 2000 (Law on social, budgetary and other regulations) which makes it possible to share workers. The exceptions were inspired by the policy objective of integrating the long-term unemployed and vulnerable groups into the labour market, rather than by the desire to innovate the labour market or establish a new flexicurity measure.

As a result of the weak legislative basis and limited policy support at national level, there are few employer groups in Belgium. During 2014 there was a change in the legislation on employer groups that aims to overcome these issues.

Characteristics of the legislation

Because employer groups are not regulated by a specific law, a legal basis can only be found in the exceptions to the common law. The Law of Secondment enables using temporary agency work as well as limited bilateral agreements between companies to share workers (co-sourcing). This law does not support the creation of employer groups where a third party acts as the employer and administers the sharing of employees between different firms. For the latter, the required legislative basis is offered in the law introduced in 2000. It is worth looking at both laws and clarifying how they offer opportunities to set up systems of employee sharing.

The Law on Secondment of 1987 is in essence quite clear: it does not allow putting workers at the disposal of another company with whom the worker does not have a labour contract. These days this prohibition is used by trade unions as the most important argument against employee sharing. Their key argument is that secondment implies the erosion of employment protection and working conditions that are secured by the individual employment contract and by the collective agreements concluded at the sectorial level or in the company where the employee works. In their opinion, employee sharing entails the risk of systematic social dumping and hard-to-control flexibility in the labour market.

Nevertheless, some exceptions to this general rule make co-sourcing and employer groups possible under certain conditions.

First, in the Law on Secondment of 1987 there is a specific article on temporary agency work. The article concerns the temporary replacement of an employee (being absent because of illness or maternity leave for instance), the temporary increase of work and the provision of exceptional work. In these cases, companies can resort to temporary agency work. Despite this limitative description, temporary agency work has become quite common in Belgium. Advocates of employee sharing, mainly found among employer organisations, therefore argue that the exception for temporary agency work as provided in the Law of 1987 should also be applicable to employer groups. Temporary agency work can be compared with employer groups because in both cases the organisation with which the worker has concluded an employment contract sends out the worker to different companies. This so-called 'triangulation of employment' is similar in both employment systems and therefore the regulation of temporary agency work of the Law of 1987 is called upon to make employer groups possible.

There are some further exceptions on the prohibition of secondment in the Law of 1987. These exceptions require the explicit permission of the social inspection and they have to be based on an agreement with an employee representation or a trade union of the company. If there is no employee representation body in the company, the trade unions represented in the sectorial committee under which the company resorts have to agree. The permission to use secondment can only be granted for permanent employees and for a limited duration (which has to be specified in advance in the agreement). There are no specific economic requirements, such as a sudden increase in work. The secondment arrangement has to be written and signed in advance by the employer, the user company and the employee. The user company is bound to pay the wages and social security contributions and other benefits to the employee and these cannot be lower than those agreed on in the employment contract with the legal employer. The user company is further liable to apply the legislation and regulations concerning the place of work – working time, holidays, occupational health and safety provisions, and so on.

Then, on 12 August 2000, a new law (Law on Social, Budgetary and Other Regulations) was concluded. This law is based on a consensus reached between the social partners under the umbrella of the National Labour Council. The law was introduced in order to tackle the economic crisis. This law created some additional opportunities to put workers at the disposal of another company, namely by allowing the authority of the employer deriving from the employment contract to be transferred to another employer/company. This transferral is similar as foreseen by the exceptions to the law on secondment, but with some additional specifications, namely concerning the provision of occupational health and safety (OSH) measures, the arrangement of working time and the instructions concerning the execution of agreed work. This meant that OSH measures, working time arrangements and work instructions could also be provided by a company with whom the worker does not have an employment contract but where he or she actually carries out some specific, and specified, work.

Other aspects of the employer authority remain explicitly excluded from such a transfer, including recruitment, wage negotiations, career planning and promotion, payment, description of the job, regulation of other working conditions, termination of the contract and exercising of disciplinary measures. These aspects remain under the sole responsibility of the legal employer with whom the employee has concluded an employment contract.

First and foremost, the law of 2000 provided opportunities for businesses to set up bilateral systems of co-sourcing. Based on this, the consultancy company USG People started to offer co-sourcing services within the legal boundaries set out, either in the form of temporary agency work, or in the form of organising employee sharing between two companies based on a bilateral agreement.

The initiative exploits the legal possibility of using an employment contract between employer A and an employee, and replacing this contract with a temporary contract with employer B in order to enable the employee to work temporarily in company B. If the employment contract is concluded in mutual agreement, no legal restrictions for this form of employment apply. It is also possible to use the temporary agency legislation to organise co-sourcing of employees. In practice, however, the co-sourcing of employees has been applied on a limited basis. The complicated legal framework and the impact of the crisis on temporary agency work in general have played a role in this limited outcome.

Secondly, the Law of 12 August 2000 foresees an additional exception to the general prohibition of secondment which offers the most pertinent legal possibility to set up an

employer group. The regulation turned out to make employer groups little attractive in practice due to three reasons:

- Firstly, imposing the largely unknown status of ‘Economic Interest Grouping’ on employer groups was a source of fears for potential user companies.
- Secondly, limiting the engagement to workers who are long-term unemployed was seen as inconsistent with the need for autonomous workers.
- Thirdly, the constrain of full time open-ended contracts rendered the start-up of the employer group very difficult because it forced complete complementarity of user companies’ needs before engaging the worker.

Consequently, amendments were considered and the new law came into force on 25 April 2014.

Under certain conditions, the Ministry of Labour can grant permission to set up such an employer group. Only the Ministry of Labour can give this permission and no other institutions are mentioned in the law. The permission to set up an employer group is only granted under certain conditions:

- the employer group has to be a separate legal entity established by several companies;
- this legal entity has to be a non-profit entity with its sole objective being the sharing of employees;
- the member companies are held jointly liable for its funding.
- the employer group is administered by a board of directors appointed by a general assembly, bringing together all user companies;
- each company has an equal voting right and as a rule decisions are taken by consensus – the members are bound by a shared responsibility which can, however, be specified in a relatively flexible way by the members (for instance agreeing a lower membership contribution if only a limited use of the employer group is planned).

In line with these laws, an employer group is the legal employer but the user-company is responsible for the practical regulations of the work – for example, instructions to carry out the work, working time arrangements and OHS provisions – and the employees are also entitled to all benefits granted to the workforce of the user-company. This aspect refers to the so-called ‘user-pays’ principle.

The user companies are also jointly liable to guarantee full-time employment for the employees involved in employer groups. Before its establishment, an EG has to take several steps in order to guarantee the feasibility of the share of workload among employees. The first one, not mandatory but financially imposed, is the so-called ‘round table’, where the companies plan the partnership and ensure that a given profile of worker can fit the companies’ respective needs, and that the work needs will perfectly match the working time of the shared worker(s). This round table is facilitated when the manager of the device has access to a regional company network, as is the case for the Liège chamber of business and industry (JobArdent), the association of catholic schools (Basic+), the agricultural cooperative (Paysans-Artisans) in order to promote the setting up of the arrangement between them. The CRGEW may also support this action step since it records in a database the needs of companies in the Walloon territory. The second step is the formal creation of the EG. The company members, that is the board members, have to decide the legal status (non-profit organisation or Economic Interest Grouping), to write and to sign a constitutive contract, to publish it in

the Official Journal, and to register it in the Trade Court. Contrary to other legal status, the legal creation of the company is inexpensive because the founders do not need to pay any notary costs and do not need to deposit money in the company bank account. With regard to this last point, the safety net for the workers is guaranteed by the legal collective responsibility of the user companies and by optional financial provisions. The third step concerns the authorisation to operate, to be addressed to the Federal PES. The civil servant in charge will check if the founder companies are real employers, whether they have social debts, and if the project looks honest (there is no evidence of social fraud). The fourth step, introduced by the 2014 law, is to obtain advice from the NLC. According to the Federal PES interviewed in the frame of this project, the social partners may ask the representative of the applying companies to describe the project precisely and to give guarantees over the solidity of the partnership, the respect of the general social law, and the respect of decent working conditions. Technically, it is only after this advice that the civil servant gives the approval of the EG. The EG can recruit a worker as soon as it has received its agreement.

The board of an EG may choose between a variety of different actors to manage the system. In some cases, it can be an employer representative of one of the user companies (GEPA, Ferm'Emploi); a member of the Board (Arboriworks); a shared worker (Vert'Emploi) from one of the user companies, or a freelancer (Jobiris, Basic+, Reso). In other examples in Belgium, EGs were managed by a public local development agency (DynaMarch) or by a representative of private local chamber of commerce (JobArdent). To finance this function, the EG charges user companies with a fee (which is) similar to temporary agencies. According to the manager of the JobArdent EG, the financing of a full time manager is self-sustaining from 10 shared workers. As reported by an interviewed EG manager, it may be very useful for the manager to also be a member of the user companies. This allows the EG manager to have regular contact with the shared worker(s) and to assess the quality of their work and correct quickly potential complaints among other issues. On the contrary, the President of the CRGEW is in favour of external management with professional experience in that matter, relational skills, and a strong connection with a company network, mainly for the possible need to replace a user company.

In operation, the employer group pays the worker shared by the different user companies. The employer group invoices the user companies according to the actual working time of the shared worker and adds an administrative fee. The employer groups are not subsidised. The user companies pay a membership fee for the services provided by the employer group. These services basically include:

- bringing companies together with a comparable and complementary need for a specific type of employee (such as a web designer or an accountant);
- facilitating consensus between participating companies, and promoting trust between the partners;
- organising the recruitment and concluding the employment contract with the shared employee;
- coordinating the working time schedules of the different user companies sharing the employee (including scheduling holidays or other forms of absence);
- finding solutions to adapt working times if a user company has to change their schedule;

- fulfilling all administrative and social obligations of the employment contract (paying salary and social security contributions, regulating holidays, sickness leave and so forth);
- invoicing monthly the cost of the employees shared;
- setting up all required administrative systems and coordinating activities to run the employer group.

In the employment contract, it is required to specify that the contract is concluded with the objective of sharing the employee between several companies of the employer group. There are no specific employment subsidies for hiring an employer group employee. Of course, when an employer group hires a long-term unemployed person for which some subsidies are available, the employer group may profit from these just as any other organisation recruiting them.

Certificates acknowledging an employer group are granted only by the Ministry of Labour and on a temporary basis at first. This certification has to be renewed generally after the first year of operation and is then granted definitively. This is mostly done if the employer group decides to continue its activities. The Ministry also decides under which sectorial committee the employer group will resort, based on the proposition of the employer group.

In practice, the advice of the employer group on the choice of sectorial committee is followed by the Ministry. This choice of sectorial committee is important because in Belgium most of the employment conditions, including wages and social benefits, working time and training provisions, are settled by collective agreements concluded between the social partners at the sectorial level. These sectorial collective agreements vary between industries, creating differences in working conditions among the Belgian workforce. This is particularly the case for blue-collar workers as there is a much wider variety of sectorial agreements in manufacturing sectors compared with the service sector. These sectorial differences in collective agreements eventually limit intersectoral mobility of employees in general and can be seen as a second hindrance for a more widespread deployment of employer groups. In particular, this can happen when the employer group encompasses companies belonging to different sectorial committees and their employees have different collective agreements. In that case, the user company staff and the employer group employee would have different collectively agreed wages and working conditions (either better or worse for the shared worker) which is not desirable.

Outcomes

Macro level: Ad-hoc practices

There is no central register of employer groups, so it is difficult to give a clear picture of all employee sharing initiatives. The development of employer groups is, however, monitored by a web resource, Centre de Recherche sur les Groupement d' Employeurs ([CRGEW](#)), Research Centre on Employer Groups funded by the Wallonia regional government.

At regional level, the Walloon region is the sole Belgian entity to promote the EG concept. This organisational arrangement is supported by the Walloon public authorities through direct and indirect ways. The public authorities have given the CRGEW a mission to develop EGs in Wallonia in 2008.

The CRGEW, a non-profit organisation that is financed by the Walloon regional public administration, was founded in 2008 by the LENTIC research center of the University of Liège and by the Liège local chamber of commerce and industry, in order to perpetuate a partnership initiated during the European project which led to the creation of JobArdent (see above). The CRGEW was financed by successive one-to-two year programmes and at the time of gathering data for this case study employs two part-time advisers. The CRGEW has three initial roles:

(1) to approach Walloon companies for raising awareness of the existence and utility of the EG tool, (2) to support companies in their attempt to join other companies with the same part-time workforce needs, and (3) to carry out media promotion and conduct lobbying activities in order to adapt the legislation to the job market needs. Recently, a fourth activity has been undertaken to create a network of existing EGs in order to allow them to exchange information on their realities, needs and tips. The CRGEW is connected with other national/regional resources centres partaking in the European Resource Center for Employer Groups (CERGE). The organisation tries to grant European funding in order to favour the sharing of practices.

The indirect support works through an incentive, requiring local business agencies, funded by district authorities, to create employer groups as a condition for receiving public funding. Until now, this approach led to the organisation of many local information sessions addressed to local economic actors (merchants, entrepreneurs and SMEs, etc.) and the creation of two employer pools: Dynamarch and Vert'Emploi.

From 1999, when the first employer group started its activities, to March 2016, we enumerate the creation of 14 employer groups (EG) in Belgium. Five of them have stopped their activities, seven others are still running, and two more were under the process of hiring their first worker at the time this case study was being prepared in March, 2016. Concerning the regional distribution, 12 EGs are/were settled in the Wallonia region and two are/were localised in the Brussels region. According to the interviewed Federal PES civil servant, no EG has been created in the Flanders region until March, 2016. At the time of preparing this case study, all the active EGs employ together 217 workers, shared between 227 user companies, mainly SMEs, settled in the Wallonia and the Brussels regions. The characteristics of the 217 workers are various: blue and white collar workers, women and men, youths and seniors, individuals with low and high qualifications.

As reported by the Federal PES representative, eight initiatives have never been succeeded. In six cases, the projects ended by voluntary abandon of the founders mainly due to the legal

restrictions (profile of workers and full-time contract mandatory) of the law of August 2000. In two cases, however, projects were stopped by a decision of the PES. The first EG planned to include companies with allegedly suspicious behaviour (social debts, short work contracts apparently to restore social rights). The second EG planned to include a fuel transportation company and a school transportation company, two companies under very different sectoral joint committees¹. Knowing that the joint committee of an EG must be chosen among the joint committees of the member companies and that a general principle, the ‘user pay principle’, guarantees that the posted worker must be paid *at minima* as if he/she were a direct worker of the user company, it was very difficult for the PES to choose the one offering the best working conditions for the workers.

Most of the time, EGs are created by user companies thanks to the crucial support of third parties. For the fore runners, Agrinsert, Jobiris, JobArdent and Dynamarch, pilot projects supported by public funding were the factor that permitted involved stakeholders behind the initiatives to take the time necessary to establish the network of user companies. For the consecutive EGs, the start-up phase was mainly supported by the Employer Groups Resources Center in Wallonia (CRGEW).

Below follows information on each EG and its status:

- The first employer group, Agrinsert, was started as a pilot project financed by public authorities in 2000, just before the first legislation. It comprised 15 agricultural enterprises which shared 21 workers. Because it was based on public funding without any commitment from the user companies to employ the implicated workers on a regular basis, the mounting cost of the frequent non-use of workers led to the bankruptcy of the initiative.
- The second employer group, Jobiris, comprised nine SMEs from 2003 to 2014 which shared 20 blue collar workers and one quality manager. Its establishment was assisted by European funds in the framework of a European Social Fund Project. The blue collar workers were employed six months a year in a chocolate factory and the rest of the year in an industrial butchery. The quality manager was shared the yearlong among seven other companies. A conjunction of negative factors including the complexity of the pay calculation, lack of time of the EG manager, and pressure from local trade unions to integrate the workers in the user companies led to the end of the EG.
- The third EG, Dynamarch, started its activities in 2003 with two freelancers active in the building industry. Thanks to the organisational support (round table to find partners, feasibility study of a local public development agency, these entrepreneurs created the EG to share one blue collar worker, in order to test their management capacity. After a successful trial period, they agreed to end the initiative by directly employing the shared worker in one company, and by hiring another worker in the second company.
- The result of an EU project conducted by the LENTIC research center of the University of Liège, the fourth EG, JobArdent, was created in 2008 by the Liège

¹ A joint committee is a structure related to a specific sector and composed of trade unions and employers representatives. Its main goal is to negotiate permanent or temporary sectoral collective agreements (on minimum wage, training efforts, social dialogue thresholds, etc.) which are mandatory for all the companies in the considered sector.

chamber of business and industry to share workers among its members. In 2016, JobArdent comprises 58 user companies. Until now, the EG has occupied 16 workers and nine of them are still shared among 33 user companies. Their current functions are: infographics specialists (5), secretary (2) and IT manager (2). The recruitment of a third IT manager is under way at the time of preparing this case study in March, 2016.

- Arboriworks started its activity in 2008 at the initiative of four arboreal companies sharing three blue collar workers for 10 months each year. They integrated a farmer company that needed support for one month each year. However, the EG stopped its activities in 2013 when one of the partners decided to sell his business and the remaining partners then ended their cooperation for financial reasons (decrease of Belgian classic wage subsidies, due to the seniority of the workers) and HR tensions (the workers were reluctant to work in the farm).
- Syndic Reunis GIE gathers three building management companies since 2008. The EG hires currently five workers for the accountancy and the secretary work of its members. Three workers have full-time contracts, where two of them are recently employed part-time.
- Vert'Emploi was founded in 2011 as a joint initiative of two local business development agencies. The idea of the founders was to share a worker in charge of maintaining paths across the two local territories. By creating an EG, they also achieved one of the objectives fixed by European Feder regional granting agency. Vert'Emploi was the first EG to be VAT-exempt. At the end of 2014, one of the two founders ended its activities, precipitating the closure of the EG.
- Basic+ was created in 2013 by several schools to share an accountant. This initiative was founded by an association of catholic schools to professionalize school accountancy, as it had been performed as volunteer work until then. Initially created as an economic interest grouping, this EG was the first one to adopt the non-profit status allowed by the 2014 law. Today, Basic+ comprises around one hundred schools and shares two accountants and three accident prevention advisors.
- Udil.ge is the first EG that was set up to help a company transition through a restructuring. Born in 2014 by initiative of Walloon public and para-public entities, the objective of the EG is to allow the transfer of 275 workers from the ArcelorMittal restructuring company. Udil.ge is the first EG that was permitted by the new law to offer fixed-term contracts. This permission was essential for two reasons. Firstly, the financing of employees' salary was guaranteed from public funds, and secondly, the distribution of work among the 38 user companies was not fixed, which was perceived as very risky. In March 2016, Udil.ge employs 191 workers
- Reso was set up in 2014 by a dozen of non-profit organizations linked to the same network as Basic+. Reso employs an accountant and, at the time of preparing this case study in March 2016, plans to also hire a prevention advisor. The reason why the consortium was required to create this new EG rather than simply relying on the existing Basic+ is that VAT exemption was limited to EGs comprising only VAT-exempt companies and only if these companies have the same statutory objective (see below).
- Ferm'Emploi, established in 2015, comprises three farms and shares two workers among them. The first employee was previously a direct worker for one of the farms

but this farm could not afford to pay her salary any longer. The second worker is the son of one of the farmers. Before the EG came into existence, this second worker was employed with a very unfavourable status granting him few social rights. Both of them are employed part-time: the first worker has a 3/5ths working time contract and the second a half-time contract.

- Paysans-Artisans is a GE founded in 2015 by an agricultural cooperative. It comprises 13 breeders and vegetable producers. Eight of them are ‘active’ in the EG and share the four half-time workers. The five other user companies remain ‘in reserve’. The decision to create part-time jobs instead of full-time jobs was made because of an activity peak at the end of the week, so that all the workers are working at the same time. In order to be eligible for a new tax reduction, the EG has postponed its first recruitment to January 2016.

Table 1: Overview of Belgium employer groups (March 2016)

Year	Name	Number of user companies	Number of workers	Industry	Type of contracts	Active
2000	Agrinsert	15	21	Agriculture	Full time Open-ended	No
2003	Jobiris	9	21	Food	Full time Open-ended	No
2003	Dynamarch	2	1	Construction	Full time Open-ended	No
2008	JobArdent	58	9	Mix	Full time Open-ended	Yes
2008	Arboriworks	5	3	Agriculture / Arboriculture	Full time Open-ended	No
2008	Syndics Réunis	3	5	Building Management	Part time Full time Open-ended	Yes
2011	Vert'Emploi	2	1	Semi-public	Full time Open-ended	No
2013	Basic+	+100	5	Teaching	Part time	Yes

					Fixed term → open ended	
2014	Udil.ge	38	191	Metal	Full time Fixed term	Yes
2014	Reso	+12	1	Service	Full time Fixed term → Open ended	Yes
2015	Ferm'Emploi	3	2	Agriculture	Part time Open ended	Yes
2015	Paysans-Artisans	13	4	Agriculture	Part time Fixed term → Open ended	Yes

Source: Authors

According to the interviewed CRGEW representative, the EG system remains underdeveloped in Belgium because there is low awareness of the arrangement among Belgian companies. Moreover, when companies know about an EGs' existence, they often consider it negatively due to the previous legislation that obliged hiring only long-term unemployed workers with a full-time open-ended contract. Such a constraint was considered as too complicated and inefficient.

Another explanation given by the Ferm'Emploi EG is that take up is low due to the growing individualism of Belgian entrepreneurs for whom it would be increasingly difficult to join other companies in a common enterprise to collaborate on employee sharing.

All the persons interviewed for this report consider that the EG is a job creator in direct and indirect ways. They think it can create jobs directly because the EG is often the only economically and organisationally viable solution. According to the user companies met for this report, EG is indeed the sole long-lasting solution to manage the activities performed by shared workers. Without this arrangement, the websites would not be professionally realised (JobArdent), the local distribution of farm products would be reduced (Ferm'Emploi), school accountancy and accident prevention would remain unprofessional. (Basic+). On the other hand, they think it can create jobs indirectly because it participates in the user companies' development with evolving job creation. The arrangement could also be a way to attract foreign companies in the Belgian territory. As reported by the PES representative, this is already the case since a French interim company plans to settle in Wallonia in order to create two parallel structures: one temporary agency to answer to unpredictable needs of its clients, and an EG to provide a solution for predictable needs. Nevertheless, a real attractiveness for the

region would require a rationalisation of the authorisation to operate process, which is currently discussed in the NLC.

Micro level

From a micro perspective, the case study findings suggest that employer groups potentially have a number of advantages for the participating companies in Belgium, including:

- distribution of employment risks;
- avoiding high severance payments and long notice periods that normally have to be paid when dismissing permanent employees; in case of a decrease of work volume the user company can rely on the employer group to compensate the reduced working time of the shared employee;
- additional forms of flexibility to overcome business cycle variations but without the negative aspects of short-term temporary agency work;
- access to qualified staff is a key outcome and benefit for the companies concerned, especially SMEs;
- the sharing of an employee may enable the often very small SMEs to recruit a professional on a stable and long-term basis which they would not be able to attract on their own – examples given are technical profiles, health and safety or prevention staff, quality controllers in the food industry, specific ICT expertise, accountancy and website development.
- hiring such professionals may give them access to new knowledge, innovations and techniques to which they would not have access otherwise – this can support their professionalisation;
- including a worker in the company on a more stable basis than in case of temporary agency work or a temporary contract, which is beneficial for the integration and the atmosphere among the staff; this stability of the workforce also signifies the capacity for the shared worker to immediately be operational, cycle after cycle, limiting in this way the transitional costs usually paid with successive temporary agency workers or freelancers;
- practice exchanges among user companies through the shared workers who spread these practices from one company to the other; this refers to both, production/service provision practices and HR practices (the latter can result in a better image as being innovative and socially responsible);
- partnership during an indefinite period creates social links between the user companies; in some cases, as in the JobArdent EG, these relationships can lead to business development.

However, difficulties may arise when the work cannot be finalised during one work shift of the shared worker. In that case, the work will be suspended until the shared worker comes back. Another kind of problem may emerge if the worker is exhausted from an overly intensive work in the previous assignment. To mitigate this problem, several EG have stated in their internal rules that each user company must control the intensity of the work requested.

At the level of individual workers, the main effects were found to be:

- job creation/employment opportunities – the employer group enables companies to recruit additional staff that they might otherwise not have done;

- more employment security as compared to temporary agency work because the shared worker gets a permanent contract;
- integration into the labour market;
- predictability of assignments;
- task diversity which prevents monotony and provides the opportunity to quicker gain different experiences;
- high requirements concerning personal attitudes and skills – the respondents state that shared employees need to possess certain qualities and exhibit specific attitudes as compared to the more regular forms of employment, such as the ability to adapt to different working environments, colleagues and company practices, discretion, awareness of confidentiality issues, mobility and so on. employability based on more learning opportunities as compared to working in one company;
- risks of work intensification by combining different part-time jobs;
- question of sustainability in the longer term and for less fit people;
- risk of burnout due to the workload consecutive to a succession of peak activities;
- limited opportunities to communicate ‘in front of the coffee machine’ and exchange good practices, tips, experiences, etc.;
- risk that the shared worker are not be aware of security procedures and other important issues in the different workplaces and that the user companies feel less responsible for accident risks as risk insurance is the responsibility of the EG;
- risks of unequal treatment if working conditions or benefits differ from regular staff if the employer group resorts to a different sectorial committee and different collective agreements than the user companies.

As reported by the President of the CRGEW, the majority of the workers employed by EGs, hold as a common characteristic the relative precariousness of their previous professional situation. For most of them, the arrangement is seen as a way of securing their professional paths thanks to the long-term contracts and the solidarity between the user companies. The entry to an EG is therefore typically necessity-driven. Consequently, a potential labour market characteristic for an effective implementation of strategic employee sharing is maybe a high rate of unemployment, where the latter are more likely to accept such flexible job.²

Nevertheless, according to the workers interviewed for this report, their stability in the EG leads them to consider the arrangement as an opportunity for developing their skills while maintaining a secure job. According to the President, this point of view is corroborated by the stability of the employment relationship, that is to say the extremely low turnover and staff absenteeism rates, ‘lower than within the user companies’.

² Even if it has never been an argument from the interviews, it could be a factor explaining the unequal development of the arrangement accross the country. Indeed, the EG are not present in the Flanders region where the unemployment rate is far lower (4,9% than the Walloon (11,7%) and the Brussels (18,1%) regions (Year 2014. source : <http://www.emploi.belgique.be/moduleDefault.aspx?id=21166#AutoAncher2>)

Strengths and weaknesses

The potential of employee sharing is that it can establish increased flexibility and security for both employees and (small) companies. The system offers more flexibility compared to regular employment because the employee is shared with several other user companies and formally employed by the employer group administrator. This enables to more easily adapt the workforce to changes in work volume without having to dismiss the redundant worker. If the work volume decreases in one user company, the shared employee can be employed by other user companies (or by new members of the employer group that are attracted by the employer group's administrator).

The employer group's members have agreed to be jointly liable to secure the full-time employment of the shared worker. Conversely, sharing employees enables having an employee in the company on a longer term as compared to temporary agency work. Such a longer term inclusion provides more security for the company to have at its disposal an employee who is familiar with its practices and culture and qualified to do the required work.

In principle, employer groups are a permanent structure, providing companies with employees that will work for a relatively long time in the company. This is the biggest contrast with temporary agency work which is mainly targeted at short-term, business cycle related flexibility. In an employer group, member companies can typically rely on more highly skilled workers. The employee, on the other hand, has the guarantee of a full-time job based on a permanent contract.

Completing the 'puzzle' of combining the needs of several companies into one full-time job may require some time and investigation. This time lag may be problematic for the first interested user company that often needs a quick solution and ultimately can decide not to wait until there are a sufficient number of other interested companies to share the employee.

The observations from the employer group case study confirm the importance of the responsibility of the employer group and the user companies to secure a full-time job for the shared employee. This responsibility implies a minimal level of mutual trust and good relationship between the user companies, as well as a shared confidence in and support of the employee. The case study provided another important dimension of the full-time employment, which is associated with the high risk of work intensification. Performing many different tasks in a few different companies requires a lot of flexibility and adaptability from all parties concerned. Considering that employer groups are currently designed to employ vulnerable groups and the long-term unemployed, their skills and employment profile may often not match the demanding and diverse working schedule, especially at the beginning of their employment experience.

Even if the recent legislation changes appear to be favourable for the development of the arrangement, the 2014 law created some insecurity for the newcomers. Indeed, it introduced two new constraints which are (1) to introduce a transitional period during which every new EG has to ask to the Federal PES an authorisation to operate, until July 2017 and (2) to condition this authorisation on the advice of the NLC. The aim of this limited period is to give time for the NLC to investigate and suggest solutions for the following issues raised by the Minister of Employment:

- how to determine the sectorial joint committee of the EG if its members (user companies) come from several sectors and relate consequently to several sectorial joint committees

- how to implement the ‘user pay principle’, as it is already imposed for temporary agencies, in order to guarantee equal treatment among the shared worker and the regular workers of the user companies?

Another important issue is the Value Added Tax regime of the EG. The general rule is that EGs are subject to VAT taxation. For user companies that cannot recover VAT, the arrangement will appear very costly. A solution is then to create an EG benefiting from a VAT exemption. A tax circular from the 1991 (before the creation of the EG system) authorises such an exemption for ‘business groups’ if:

- all of them are exempt (with a tolerance for companies with a mixed VAT regime)
- all of them pursue the same activity.

This VAT exemption seemed to have been a strong incentive for the setting up of Vert’Emploi, Basic+, and Reso. Indeed, for the user companies of these employer groups, this arrangement appears far more interesting than temporary agencies and subcontracting alternatives, where VAT is compulsory.

Transferability

The respondents have suggested some ideas for conditions under which the instrument could be useful. First, it appears that employee sharing could be used in a more proactive way as an instrument to manage restructuring. Indeed, the closing down of large companies in Wallonia and Flanders inspired the social partners and policy makers to investigate the use of such instrument to facilitate the absorption of the redundant workforce.

Apart from the legal aspects, the respondents also emphasised that several conditions need to be addressed in order to implement employee sharing systems:

They say employee sharing such as in employer groups and co-sourcing is founded on a complementarity in labour market demands between companies. Companies may be interested to recruit a new employee but not have sufficient work or sufficiently safe economic prospects to hire someone on a full-time permanent basis. Companies may also be confronted with structural cycles in their demand for specific competences. The trick with employee sharing is indeed to pool these labour market demands in such a way that a full-time job can be ‘composed’. This complementarity may concern seasonal production cycles, project-based work (requiring a larger number of skilled workers during a relatively long period to work on a joint project) or the access to special skills on a non-full-time basis;

The respondents also want to ensure:

- the capacity of the participating companies to foresee the workload variation and to define the relatively stable share of this variation which will be the basis for the employee sharing arrangement;
- similar wage and working conditions, preferably the coverage by the same sectorial collective agreements in order to avoid social dumping practices;
- the collaboration/agreement of the local trade unions as well as the social inspectorate (as long as the legal restrictions are not solved) since their agreement is required within the current legislation as explained
- geographical proximity of a sufficient number of potentially interested companies;
- limited rivalry between user companies and a clear confidentiality policy;

- the administrator of an employer group should have a sufficiently large network of companies that may be interested in sharing employees, which is important for finding a quick replacement if one of the user companies quits or if there is the need to adapt to changing needs of the participating companies;
- collaboration with the local public employment services, not only to help with the search for suitable employee candidates through their databases, but also to share their knowledge of and access to a large number of companies in the region.

The issue of whether employer groups should be privately owned – for example by the Chamber of Commerce, a temporary agency or a consultancy company – or public entities was considered of less importance.

It was also suggested that the employer group's administrator should invest in establishing trust among the member companies, since these often prefer to remain discrete about their financial economic situation. If members of the employer group are not sufficiently economically viable, this may become problematic for the other user companies with whom they share an employee because all user companies are jointly liable to secure a full-time employment of the shared worker.

In the event one member going bankrupt, the redundant working hours of the shared employee have to be absorbed by the other users, or the employer group has to find a new user.

Concerning the existence of unions in the user companies, the experiences are diverse. In the Jobiris case, the unions were active in two ways. Firstly, they represented the shared workers as if they were direct workers and defended them if needed. Secondly, in one of the user companies, the development of the EG was considered as a major social dialogue issue: the union rejected any growth of the device as long as the rate of temporary agency workers was not reduced. In the JobArdent case, the unions of a user company consider the shared worker as a subcontractor and out of its jurisdiction. In the Udil.ge, the creation of the EG is the result of a restructuring. The unions are members of the arrangement in order to guarantee the rights of the shared workers.

The main worker characteristics to favour the functioning of an EG is certainly his/her capacity to work autonomously, to cope with diverse workplaces, to manage several management style and, in some cases, to be flexible enough to adapt to changing schedule.

Commentary

Sharing employees as a labour market instrument

There seems to be a general agreement among the respondents that sharing employees may have some promising benefits for both employees and companies, and also for the economy and the labour market as a whole, and that this instrument deserves to be improved, supported and facilitated.

The respondent from the public employment service considers sharing employees as a key building block of a comprehensive labour market policy, fostering employability and security for the workforce.

The key objective of the labour market policy is for it to work for all and, while there are no quick solutions, sharing employees can contribute to better matching of supply and demand of

labour at the local level. According to an interviewed respondent, the labour market regulation should be conceived in such a way that it allows sharing of employees between different companies while at the same time guaranteeing employment security for the employees. A key element in such policy, however, is to ensure that workers receive sufficient training and they possess the right qualifications for the jobs.

Role of qualification and competencies

Qualification is a cornerstone of flexicurity and labour market inclusion. In the debates on employer groups and co-sourcing, the role of vocational education and training (VET) is not prominent and it is also missing in the current practices. However, according to the interviewee from the public employment service, training should be included as a key element when sharing employees.

Firstly, it can help to solve imbalances in the demand of work within the group of user-companies.

Composing a full-time work schedule for shared employees may be a difficult task to solve and the work volume may also change over time, for instance when one of the companies quits the group or has an important reduction in orders. Sending shared employees on training during such low periods may prevent workers being temporarily unemployed and may reduce the burden on the member companies to provide full-time work.

Concerning the inclusion of training provisions as a structural part of the shared employee's work schedule, interviewees acknowledge that this would be an ideal situation, however, in practice this is difficult to combine with the workforce demand patterns of the user companies. Periods of unfilled work in a schedule for the employee mostly occur unexpectedly and have to be solved in a short timeframe. This would make the planning of structured training difficult.

Another question of course, is how such training efforts should be financed. There are different options. In case of co-sourcing, the training costs can be divided between the companies involved. In case of an employer group, the employer group's administrator can coordinate the training needs and efforts and organise the sharing of the costs between the user-companies concerned or between all members of the employer group. Further, training could also be provided by the sectorial committees to which the user companies or the employer group belong. These sectorial committees play a key role in organising VET at sectorial levels. Finally, training may also be provided by the public employment services (PES).

Secondly, training both on and off the job equips the employees with the skills needed in different companies. In this respect, it is equally important to provide a formal certification of these acquired competences: employees working in different companies may have specific competencies and more learning opportunities on the job as compared to those working in one company. The formal accreditation of such competences empowers the employees and improves their labour market opportunities.

Thirdly, comprehensive and fine-tuned overviews of required competences in different occupations (at the sectorial level) may support the matching of the demand and supply of labour in the employer groups. There may be a role for the public employment services to develop classifications of occupations and the required skills and competences. Such occupation and competences overviews may also support employee sharing initiatives to better specify what profiles their members exactly want, what tasks overlap between the

vacancies and what skills potential candidates need. For instance, if several companies need a part-time helpdesk employee or a technical operator, that could be combined into a common vacancy with a detailed overview of the required tasks and competences, which could potentially lead to more effective recruitment.

Additional emphasis on education and training, on the accreditation of acquired competences and on the support of a good skill match with occupation and competence tools would give a prominent role to the public employment services in the coordination and support of employee sharing systems.

An interviewee from the employer federation confirmed some of these opinions. In this respect, there is a consensus among the respondents that, in principle, there are no constraints with respect to skills or occupations of employees that can be shared. It can be used for all types of profiles. The baseline is to find a sufficient number of companies that are looking for a similar profile and a sufficient number of hours a week to complete a full-time employment contract.

On the other hand, the respondent from the employment federation considered sophisticated methods and tools for skill matching, such as digitalised qualification and competence profiles of occupations may be too difficult to implement in small employer groups. Such a tool is very helpful for large labour market entities, including the public employment service, large temporary work agencies and, ultimately, very large employer groups. In practice, however, member companies describe the skills and competences that they need and the description of a joint profile can be reached most easily in meetings with other interested member companies.

However, as SMEs are much more likely to be involved in employer groups than large companies and they often do not have well-described occupational profiles or function descriptions, creating these elaborate occupational or functional descriptions would create a significant burden for them.

Information sources

Websites

CRGEW (Centre de Recherche sur les Groupement d' Employeurs): www.crgew.be

Bibliography

Eurofound (2015), *New forms of employment: Employee sharing – Belgium, Case study 3: Job'Ardent*, Dublin.

Xhaufclair, V. (2011), *La formation de régulations équilibrées et pérennes au niveau inter-organisationnel: le cas des pratiques de mutualisation de main-d'oeuvre* [The formation of regulations at the inter-organisational level, the case of practices of mutualisation of workforce], Doctoral thesis, University of Liege, Belgium.

Xhaufclair, V. (2012), 'La mutualisations de main-d'oeuvre: diversité de pratiques et nouveaux enjeux [The mutualisation of workforce: Diversity of practices and new challenges]', in Allouche, J. (ed.), *Encyclopédie des Ressources Humaines, Theories, Instruments, Méthodes, Auteurs*, Vuibert.

Monique Ramioul, Research Institute for Work and Society, HIVA-KU Leuven; Frédéric Naedenoen, LENTIC – HEC Liège – Management School of the University of Liège.

April 2016.