

## Belgium

At the end of 2008, the Belgian federal government, after discussions with the regional governments and the social partners, agreed on a “*Plan de relance*” containing several anti-crisis recovery measures. The plan was presented on 11 December 2008 and integrated into the “*loi de relance économique*” of 27 March 2009. The plan *inter alia* includes some of the measures agreed upon by the interprofessional social partners in their “*Accord interprofessionnel 2009-2010*” (AIP) of 22 December 2008. A second phase of measures, complementing this first part, was adopted in late May 2009 and integrated into the law 19 June 2009. All these different measures were grouped around three themes: 1) lowering the cost of labour, 2) supporting the purchasing power of both active and non-active citizens in order to stimulate demand, and 3) reforming the labour market to avoid dismissals, and improving the transition from unemployment to work.

Looking at the reduction of the cost of labour, the measures provide *inter alia* for a general reduction of the fiscal burden, a reduction of the social security contributions on night and shift work and a reduction of taxes on the first 65 hours of overtime per year. This ceiling was increased to 100 hours for 2009 and to 130 hours as from 1 January 2010. As for the measures reforming the labour market, these included a special “employment unit” for assisting dismissed workers in cases of collective dismissal, offering outplacement to all workers dismissed in the context of restructuring. The latter measures also apply to fixed-term and agency workers who have been with the company in question for at least one month. Moreover measures relating to working time arrangements form part of the plan. These include a general reduction of working time and the possibility of introducing a four-day working week. The latter concerned all enterprises in the private sector and autonomous public enterprises. As for the general reduction of working time the law allows employers faced with a downturn in production to reduce average weekly work hours (counted on an annual basis of full time workers). To be entitled to pay reduced social security contributions, average weekly working hours have to be reduced by one fourth or fifth (dependent on whether the company operates a five- or six-day working week). This reduction in working time can be applied to all workers or just a specific category of workers in the enterprise. All criteria and conditions must be set in an enterprise collective agreement. The reduction of weekly

working time can also be done by introducing a four-day working week, replacing a previous five-day working week. As the reduction of working time also implies a loss in gross salary, employers may provide salary compensation.

On September 15 2010, the Belgian government decided to extend the anti-crisis measures adopted in June 2009. The law of 1 February 2011 brought a further extension to 31 March 2011 with the exception of *inter alia* of the measures on the temporary adjustment of working time which only remained applicable until 31 January 2011.

In November 2010, negotiations for Belgium's next Interprofessional Agreement (IPA) for 2011–2012 began. The agreement, which covers all companies and workers in the country's private sector, sets out a two-year framework programme covering issues such as potential wage increases, employees' contributions and replacement income. The Interprofessional Agreement (IPA), once agreed by the social partners, has to be transposed into collective agreements at the level of the National Labour Council ([CNT/NAR](#)) and of the sectoral joint committees. A 1996 employment and competitiveness law stipulates that, within the IPA, the social partners agree on the maximum allowed margin for wage increases. This margin, calculated by the National Economic Council ([CRB/CCE](#)), cannot exceed the rise of the overall wage costs in Belgium's neighbouring countries, France, Netherlands and Germany, which are Belgium's main trading partners and competitors. However, the margin must include at least wage indexation (calculated on inflation) and also take into account wage-scale increases. Those two elements form the minimum rate in the pay negotiations at the sectoral level which usually follow the IPA.

On 19 January, the so-called "Group of Ten" (two representatives of the Belgian Federation of Employers ([FEB/VBO](#)); one representative from the Organisation of the Self-Employed ([UNIZO](#)); a member of the Union of Small Firms and Traders ([UCM](#)); a representative of the Federation of Belgian Farmers ([BB](#)) and on the trade union side two representatives of the Belgian General Federation of Labour ([FGTB/ABVV](#)); two from the Confederation of Christian Trade Unions ([CSC/ACV](#)); and one representative of the Federation of Liberal Trade Unions of Belgium ([CGSLB/ACLVB](#)) that negotiates these agreements finally reached an agreement. The main issues discussed were wage increases, welfare benefits and harmonising conditions for the country's blue-collar and white-collar workers. Following the IPA, which covers 2011 and 2012, the maximum margin for wage increases was set at 4.2%. This increase for the most part compensates for inflation (3.9%) in line with estimates from the [Central Economic Council](#) (CCE/CRB). The remaining 0.3% reflects the result of the social partners' bargaining. As for the harmonization of the employment status of blue-collar and white-collar workers the social partners planned a step-by-step harmonisation for the next IPA. Among the biggest differences between blue-collar and white-collar workers are conditions of dismissal, including the length of notice periods. The IPA suggests harmonising them by increasing the length of notice given to blue-collar workers and

decreasing it for white-collar workers. Other issues in this harmonisation include guaranteed incomes, holiday benefits and temporary employment measures. For blue-collar workers, the first day of illness, also called a missed day, is not paid at all, whereas it is paid in full for white-collar workers. The agreement addresses this discrepancy by applying the same treatment to blue-collar workers. Regarding holiday benefits, union and employer representatives have reached an agreement on improving the situation for blue-collar workers, with the ultimate goal of developing one single calculation method for all workers. Lastly, the applicability of certain measures put in place during the crisis to deal with the impact on employment will be extended. The possibility for white-collar workers to opt for temporary employment will be extended permanently. As for blue-collar workers, this option was extended to them as part of the anti-crisis measures. In 2016, there will be one single measure for all workers. Until then, temporary employment crisis measures for white-collar workers are upheld. Other anti-crisis measures are also extended.

After 535 days of political crisis and without a federal government, the new government policy was presented to the Parliament by Prime Minister Elio Di Rupo (PS) on 7 December 2011. It includes reform of the early retirement scheme and the pension system, but also foresees a plan to simplify and update the laws on temporary agency work, part-time work and overtime, though no further details have been provided. The government also intends to encourage and facilitate forms of work that favour a better work–life balance, such as teleworking.

With regard to early retirement, the term ‘bridge pension’ (*brugpensioen*), which applies to an early retirement benefit, will disappear. This benefit will now be described as ‘unemployment with an extra company benefit’, indicating that the worker still has to be available for work. This form of early retirement will only be available from the age of 60 and after a career of 40 years. To enforce this rule, new collective agreements will be needed because a number of existing or renewed collective agreements could keep the former regime in force until January 2015. Also the rules for bridge pensions change in the case of collective dismissal, with workers aged 50 and over able to take the option of a bridge pension in settlements at companies in financial difficulties. However, this minimum age is being raised to 52 and will be gradually increased by six months each year to 55 years by 2018. Restructuring companies will have to set a minimum retirement age of 55 in 2013. When a collective dismissal includes 20% of all employees, the restructuring will be subject to the same rules as for a company defined as ‘in difficulties’. The employer contribution to a bridge pension will be adapted according to the age of the ‘retiring’ person. The system of part-time bridge pensions will be abolished, and no new entrants to this scheme will be accepted from 2012 onwards. The government also foresees the possibility of increasing the age requirement for the bridge pension to 62 years in 2020. Furthermore, the minimum age for early retirement will rise gradually from 60 to 62 years. From January 2013, it will increase by six months every year until it reaches 62 in 2016.

With regard to working time arrangements, the government wants the 38-hour working week to be more flexible and is even planning to annualise it. Also the system entitling employees to take a career break, known as time credits, will change and all applications for time credit from 20 November 2011 will have to be granted in accordance with the following new rules:

- The normal time-credit or career leave will be limited to a maximum of one year for full-time workers, two years for part-timers, or five years for those working one fifth of a usual working week.
- The qualifying criteria are to be restricted. An applicant must have already worked for more than five years, and at least two years in the company concerned. These restrictions can no longer be overruled or extended by collective agreements.
- The time-credit system with justification (to care for a young child or sick family member) can be used for a maximum of 36 months during a worker's career, whether they work full or part time.
- The time credit system for older workers with higher benefits, currently for those over the age of 50, is now restricted to people over 55 who have worked for 25 years. Exceptions will be developed for so-called 'heavy' occupations.

These time credit periods were previously included as working time for the calculation of pensions. This 'equalisation' will now be severely limited to a maximum of one year (previously three years in most cases). The career leave system in the public sector will be harmonised with the new time credit system and this harmonisation will have to be completed by 2020. From 2012 onwards, the career leave system in the public sector will be limited to a maximum of 60 months.

It is also planned to 're-evaluate the Renault law' which deals with information and consultation obligations in cases of collective redundancies.

On January 24 2012, the Belgian government adopted a bill containing a series of measures on the employment of older workers and on training. Measures concern amongst others: the introduction of seniors' programs at company level, obligation to take account of the age pyramid when there are layoffs, and even tougher sanctions against businesses that do not comply with training obligations.

In the case of collective redundancies, businesses will have to take account of the age of the employees concerned to maintain a balanced age pyramid in the company. The employer has a duty to respect an age pyramid with regard to the workers who will be laid off. The aim is to avoid mainly older workers losing their jobs in the context of collective redundancies. However, for companies whose collective redundancies take place within the scope of bankruptcy procedures, a judicial dissolution pursuant to the

Act of 31 January 2009 concerning the continuity of enterprises and a closure of the company in the meaning of the Act of 26 June 2002 concerning the closure of companies remain excluded from the application of this new age pyramid legislation, provided that such closure is complete and covers all employees of the company. The number of redundancies in the context of collective dismissal must be proportionally spread across different ages. The age categories are: employees younger than 30, employees between 30 and 50 years, and employees older than 50, taking into account the age at the time of the notification of the intention to initiate collective redundancies. If, however, the dismissals only take place in one or more departments or in one or more business segments, only those workers who are employed in the respective departments or business segments will be considered. With regard to age group, a deviation of only 10% is in principle accepted, compared to the rigid application of the proportional distribution of the number of redundancies based on age categories. Employees with an employment contract for a fixed period or for a specific project may be excluded from this scheme, unless the termination of employment due to the collective redundancies is made before the end of the fixed term of the contract or before the completion of the work. Employees who have a key role in the company may also be excluded from the scheme. These workers are not taken into account when determining the proportional allocation. Respecting the age pyramid in a collective redundancy is a prerequisite for a company upholding its entitlement to a reduction in social security contributions. According to the explanatory memorandum of the Act, this is the only consequence in case the age pyramid is not observed. The obligation to respect the age pyramid does not create special protection or rights for an individual employee, nor is the validity of the negotiated social plan compromised in case of non-observation. When they fail to comply with the law, businesses may lose, for two years, some of their rights to reduced contributions. The government also wants businesses to introduce special annual plans on the employment of people over 50. Businesses with less than 20 employees are not concerned. The new measures were incorporated into Article 62 ff of the Act of 29 March 2012 regarding miscellaneous provisions published in the Moniteur belge of 30 March 2012 and were to enter into force on 1 July 2012 unless the social partners concluded a national intersectoral (cross-industry) collective labour agreement in the National Labour Council, which provides for an alternative mechanism, before that date. On 27 June 2012, the social partners concluded Collective Bargaining Agreement No. 104 on an employment plan for older workers. The scope of the collective labour agreement includes every company with more than 20 employees. These companies must elaborate an employment plan to maintain or increase the number of employees aged 45 years and older. The number of employees is calculated on the basis of the number of employees (full-time equivalents) on the first working day of the calendar year and on the basis of the number of temporary agency workers in the company on that day. The employer must elaborate an annual employment plan that includes measures that extend over several years. The plan should provide an overview of all enterprise-specific measures to increase or maintain the number of employees aged 45 years and older. Those measures already being implemented in the enterprise, if any, may be included in the plan. The employer may opt for measures from one or

more of the following areas: development of the competences and qualifications of workers; career development and career guidance within the undertaking; providing opportunities and positions that correspond to the development of the employee's capabilities and competences. The above list is non-exhaustive and can be supplemented by the different sectors and/or individual companies. The employment plan for older workers is subject to the workers' information and consultation procedure. The employment plan proposal shall be submitted to the works council. If there is no works council, the draft is submitted to the trade union delegation or, if none exists, to the Committee for Prevention and Protection at Work or, if no CPPW exists, to the employees of the company. The employee representatives have 2 months to give an opinion and can formulate a complementary or an alternative proposal. If the employer develops such a plan without applying the information and consultation procedure, the employer must explain the decision. Once the employer elaborates the employment plan, the employer must inform the works council (or trade union delegation or workers) about the measures to be introduced. The employer must present an annual report on measures that extend over several years and are included in the plan.

On 17 February 2012, the Council of Ministers adopted the draft bill transposing Community Directive 2008/104 on temporary work. As Belgian law was already largely in line with Community law, the changes mainly ensure now:

- The guarantee that the rules on non-discrimination, equal treatment of men and women, the protection of maternity and women who are breastfeeding must apply to the temporary workers posted to the user company;
- The obligation to inform temporary workers about vacant positions at the user company;
- The guarantee that temporary workers get equal access to existing infrastructures and services within the user company, to anything offered to the company's permanent workers, unless the difference in treatment is justified by objective reasons.

On 24 May 2012, the bill was adopted by the House of Representatives.

In July 2012, tripartite discussions were launched to define measures to support employment within the framework of a larger recovery program. The thorniest issue will be that of wage indexation. In its Country-Specific Recommendations for 2012-2013, the Commission once again called for the cancellation of systematic wage indexation on inflation as it considered it to be an obstacle to the competitiveness of the country.

Via national collective agreement n° 103 of 27 June 2012, which will enter into force by 1 September at the latest, the Belgian interprofessional social partners agreed on a reform of the so-called time credit system. This system allows workers to suspend, totally or temporarily, their labour contract. It can be combined with other forms of leave, such as parental leave or leave to care for a parent. There are three types of time credit leave: with a motive – to raise children, to care for a sick parent –, without a motive, and time credit at the end of one's career. Over the years, the multiplication of systems started to burden businesses' personnel management and social security, which is partly paying for the time credit. After government negotiations last autumn and in keeping with the social partners' new collective agreement, time credit for no motive, which could until now last up to 5 years, is now limited to the equivalent of one year throughout the career (i.e. 12 months full time, or 24 months part time by 3-month periods, or 60 months of 1/5th career reduction by 6-month periods). Any worker with 5 years' working experience and in the same company for 24 months can ask for it. Workers can also get a 36-month time credit with motive (as opposed to 48 months before) to take care of children under the age of 8, of a sick parent, or to attend training. For this system, the requirement is to have worked for 2 years in the company. To take 3 years part time or full time, workers need to be covered by a sectoral or company collective agreement regulating the subject. This right is extended to 48 months to take care of a sick or disabled child under 21, without any collective agreement required. In addition, unions managed to negotiate the possibility to have the "motive" for suspending a career recognized later. If the public employment service recognizes the motive (sick child or parent...), the worker may get this time credit period with no motive for the future. Another change introduced by the agreement signed last December is that the age for end-of-career time credit goes up from 50 to 55, provided that the person has worked for 25 years, although it remains at 50 for "heavy" work (night and shift work), for long careers and for employees in businesses going through restructuring. Such time credit allows working 4 days a week and/or working part time. In addition, only one year of time credit is now included in pension calculations. The point is to avoid abuses from those who used to leave the labour market early without worrying about the amount of their pension since "career breaks" were counted as working periods. This category of time credit, like time credit for no motive, is subject to the employer's consent in businesses with less than 10 employees, which means that he can refuse. Collective agreement 103 was declared universally applicable to the private sector by the Royal Decree of 25 August 2012 and entered into force on 1 September 2012.

In November 2012, the government reached an agreement on the draft 2013 budget providing for a pay freeze in the country, which will not affect average and low wages and the minimum wage. Repeatedly reprimanded by the European Commission because wages were too high in relation to competitiveness, Belgium has opted for wage moderation over the next two years and decided to freeze wages, which will only follow inflation and the increases defined in collective agreements. The government has promised that neither low wages nor the minimum wage will be frozen.

On 30 November 2012, the Council of Ministers approved an initial bill aimed at implementing the agreement negotiated by the social partners at the National Labour Council (CNT) extending the possibility to resort to temporary work prior to permanent employment and supervising the use to successive daily contracts. The initial bill introduces the following regulations:

- Banning successive daily contracts, unless it can be proven that they are necessary for the survival of the company concerned.
- Adding 'integration' to the possibilities of temporary flexibility justifying temporary work. In conditions listed to avoid abuses, temporary work may be used as a probationary period in preparation for permanent employment.
- Gradually replacing the regulation stating that temporary contracts have to be signed within 48 hours (two working days) of the beginning of the assignment with the obligation to sign them beforehand.
- Adjusting regulations on the transmission of information to employee representatives. The scope of such information, which the company has to give the workers, will now be extended, giving employee representatives a better idea of the way temporary work is used in the company and thus enabling them to quickly identify the problems it might cause.

At the request of the social partners, the new regulation should come into force on April 1, 2013.

In December 2012, the Belgian interprofessional social partners started negotiations on a new so-called *Accord Interprofessionnel* (AIP) for the period 2013-2014 and which will as before include a program for the next two years covering wage developments, cutting contributions, replacement income, etc. These negotiations were however severely hampered due to the earlier decision of the government to freeze wages for the next two years (see above) and thus left hardly any room for the social partners to negotiate on. On 14 January 2013 the trade unions announced that in their opinion it would not be possible to come to a cross-industry agreement for 2013-2014 because there was not enough room for manoeuvre after the government imposed wage moderation. However, they were willing to keep bargaining for a series of partial agreements. They signed an opinion drafted by their experts on three issues, at the government's request. The first is on the link between benefits and well-being whereby the government is planning to increase minimum benefits. Secondly, they agreed on a series of measures reducing employer social security contributions in order to boost employment. And a third agreement concerned an increase of the guaranteed minimum wage. Discussions were going to restart at the end of January on how to improve flexibility and at the end of March on how to improve competitiveness.

## References/sources

### Electronic newsletters/websites

Planet Labor: <http://www.planetlabor.com>

EIROOnline: <http://www.eurofound.europa.eu/eiro/> Epsucob@NEWS – Collective Bargaining in the Public Services: <http://www.epsu.org/>

ETUI-AIAS Collective Bargaining newsletter:  
<http://www.etui.org/E-Newsletters/Collective-bargaining-newsletter>

ETUC website section on economic and social crisis: <http://www.etuc.org/r/1378>

ETUI website section on crisis: <http://www.etui.org/Topics/Crisis>

European Labour Law Network (ELLN) - <http://www.labourlawnetwork.eu>

### Periodicals

Liaisons sociales Europe

Social International

### Other

Belgian Government (2011) Projet de Déclaration de Politique Générale, Bruxelles, 1 December 2011.

ILO (2012) World of Work Report 2012: Better jobs for a Better Economy, ILO, Geneva

Laulom, S., Mazuyer, E. Teissier, C., Triomphe, C.E. and Vielle, P. (2012) How has the crisis affected social legislation in Europe? ETUI Policy Brief 2, 2012, Brussels: ETUI.

Available in English and French at: <http://www.etui.org/Publications2/Policy-Briefs/European-Economic-Employment-and-Social-Policy/How-has-the-crisis-affected-social-legislation-in-Europe>

Muller, A. (2011) Employment protection legislation tested by the economic crisis: A global review of collective dismissals for economic reasons. Dialogue in Brief, No. 3, September 2011, ILO, Geneva.

Available in French, English and Spanish at: [http://www.ilo.org/ifpdial/information-resources/publications/WCMS\\_166754/lang--en/index.htm](http://www.ilo.org/ifpdial/information-resources/publications/WCMS_166754/lang--en/index.htm)

Website of Service public fédéral Emploi, Travail et Concertation sociale on « mesures anti-crise » - <http://www.emploi.belgique.be/defaultTab.aspx?id=23784> (also available in Dutch)

Contributions by ETUC affiliated organisations:

ETUC Litigation network (meetings 29 June 2012 and 10 December 2012)

ETUC Social Policy and Legislation Ad hoc working group (Meetings 13 November 2011, 5 April 2012, 24 October 2012).

ETUC Legal Experts Network NETLEX (Annual Conference 1-2 December 2011, 11–12 December 2012)