

Occupational Welfare in Belgium: wide coverage, low benefits

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Introduction

Occupational Welfare (OW) in Belgium refers to all non-statutory supplements (benefits and services) to wages, whether provided bilaterally by social partners or unilaterally by employers, paid to employees as a result of an employment contract (the so-called '*avantages extra-légaux*'). Widespread among workers, they consist mainly of health-related provisions and supplementary pensions.

The aim of this chapter is to describe and interpret how supplementary pensions and temporary unemployment (TU) schemes are developing in Belgium. Drawing on research and reports published since 2003, available administrative and statistical data, as well as interviews with social partners, the chapter presents the state of play and analyses the institutional traits and governance of these occupational schemes. All in all, Occupational Welfare (OW) in Belgium has grown in the last decades but not as much as analysts would have expected.

As for the two policies under scrutiny, the analysis will show that, despite the low theoretical replacement rates of Belgian statutory pensions, interest in occupational pensions has only developed over the last three decades. Attempts to broaden access to occupational pensions could be qualified as successful, as the majority of workers are now covered. However, they are covered by schemes financed by low contribution levels and are thus unlikely to produce anything but meagre supplementary benefits for future pensioners.

The Belgian unemployment protection system consists only of statutory insurance against unemployment and there is no supplementary occupational scheme. The temporary unemployment (TU) scheme may however be described as a short-time work scheme whereby the contractual relation between the worker and the employer is maintained. It combines general social welfare with some occupational features, and could be considered as a kind of hybrid scheme, combining both aspects of unemployment protection. One of the main responses of the Belgian government and the social partners in the aftermath of the crisis was to extend access to the TU scheme – originally limited to blue-collar workers – to white-collar workers. Initially set up as a temporary measure, the scheme became permanent in 2012. Its declared aim is to provide employment protection 'for employees of companies in economic difficulties'. It is part of the general system of TU. However, it has had only limited success, as TU

schemes remain overwhelmingly for blue-collar workers, with little likelihood that this will change in the future.

Institutions inherited from the past largely determine the scope of any possible expansion of Occupational Welfare. This is especially the case for unemployment, where a comprehensive statutory scheme (based on the original Ghent system) crowds out any major supplement. In the case of pensions, low statutory benefits have left room for occupational schemes. However, pension policy shows that the institutional context is not enough to explain the development of occupational pension schemes. It is important to consider the players involved, their interests, ideas and strategies if we are to understand the underlying dynamics. Belgium meets all the institutional pre-conditions for a widespread occupational pension system, but this item is not at the top of social partner agendas. Trade unions are keen to defend statutory pay-as-you-go (PAYG) schemes rather than launching occupational funds. Employers see the highly-regulated system set up by the *Vandenbroucke Law* as a burden and prefer third-pillar schemes. Such divergent views seem to have been reinforced by the crisis and by individuals' attitudes towards other forms of savings.

The chapter is structured as follows. The first section gives a broader view of Occupational Welfare in Belgium, briefly defining what Occupational Welfare means in Belgium and referring to the Belgian welfare regime and industrial relations model. The section shows that, despite an increase, private contributions remain marginal compared to public contributions in Belgium, confirming that OW is designed as a supplement to public welfare programmes. The second and third sections give an overview of the key aspects of Occupational Welfare in the fields of pensions and unemployment protection in Belgium, in terms of regulation, funding, fiscal treatment, generosity and distribution. The last section draws some conclusions and analyses the future prospects for OW, especially in the field of pensions.

1. Occupational Welfare in Belgium: of minor importance compared to public welfare

Occupational Welfare in Belgium refers to all non-statutory supplements (benefits and services) provided bilaterally by social partners or unilaterally by employers to wages paid to employees as a result of an employment contract. It consists mainly of health insurance and supplementary pensions. Health benefits provided by Belgian companies include hospital insurance, invalidity insurance, complementary work injury insurance, outpatient fees insurance, medical check-ups and full vaccination¹ (Ghailani

1. Belgium has a system of compulsory health insurance with a very broad benefits package that covers almost the entire population (almost 99%). There are two main schemes: (i) the general scheme, which covers major and minor risks for the whole population (except for the self-employed), and (ii) the scheme for the self-employed, which only covers major risks. Major risks include hospital care, child delivery, elective surgery, dialysis, rehabilitation, implants and specialist care. Minor risks include physicians' visits, dental care, minor surgery, home care and medicines for outpatients.

et al. 2013). Other occupational provisions related to vocational training and reconciliation of work and family life are of minor importance.

To understand the role of OW in the country, it is important to briefly introduce the Belgian welfare and industrial relations institutions. The Belgian welfare regime belongs to the ‘conservative-corporatist’ cluster characterised by its protection of the socio-economic status of workers and by relatively generous social security provisions against social risks. Belgium’s social security has traits of a corporatist governance structure, being administered by a series of tripartite institutions grouped around a central collection agency, the National Social Security Office (ONSS). This central agency is managed by a board including representatives of the employers’ association, the trade unions and the state with equal voting rights. All subsidiary agencies implementing the various branches of the social security system also have a bipartite or tripartite governance structure.

As for the country’s industrial relations system, in the typology proposed by Jelle Visser and used by the European Commission, Belgium is part of the ‘Social Partnership’ cluster (European Commission 2009 and 2013). Corporatist principles characterise the industrial relations system as collective bargaining occurs at three levels: national, sector and enterprise. National collective agreements are usually formalized in sectoral agreements that are almost always subject to administrative extension so that they tend to have the same effect as labour and social legislation. 96% of workers are covered by collective agreements (De Deken 2011). The rate of unionisation is high (55.1%). This can be partly attributed to trade union involvement in the organisation of unemployment insurance. Belgium has a partial Ghent system: while unemployment insurance is compulsory and payments could alternatively be made by a state agency rather than trade unions, the latter retain an important role in the provision of benefits and the governance and management of the welfare institutions (Ghailani and Peña-Casas 2016).

In this context, Belgian Occupational Welfare is still designed as a supplement to public welfare programmes. Voluntary private expenditure on social protection represented only 2.1% of Gross Domestic Product (GDP) in 2011, while public expenditure represented 29.4%. However, on the whole, the share of voluntary private expenditure has risen since 1990 and more significantly between 2000 and 2005 (from 1.7 to 2.5% of GDP).

OECD figures (Table 1) show that private expenditure is essentially present in pension schemes and health-related expenditure, reflecting the two main kinds of provision existing in Belgium. Private expenditure on pensions has risen strongly since the mid-nineties, but was already present in the eighties. For health-related private expenditure, private contributions began to appear more recently, in the mid-2000s (OECD 2015). This trend is confirmed by national data sources. Data on companies show that hospital insurance benefit is provided by 69% of enterprises to their whole workforce, and 64% provide flu vaccinations to their workers. Executives are the best protected as they have higher coverage rates, especially regarding hospital insurance (74%), non-statutory work injury insurance (44%) and invalidity insurance (39%). All

health benefits are more frequently provided by enterprises with a workforce of more than 500 people and by the chemical sector (SD Worx survey 2010). Despite the increase, private contributions remain marginal compared to the state contribution, as Belgium has a compulsory system of health insurance with a very broad benefits package that covers almost the entire population. Voluntary health insurance has only a limited and mainly additional role (Gerkens *et al.* 2010). Family expenditure is exclusively financed through public programmes. This is also the case for training related to active labour market policies, while vocational training for workers is financed by employers.

Table 1 Social expenditure – as a percentage of Gross Domestic Product

Source	Branch	1990	2000	2009	2011	dif. 2011-1990	% dif. /1990
Public	Old age	6.5	6.9	8.1	8.3	1.8	27.7%
	Survivors	2.6	2.1	2.1	2.0	-0.6	-23.1%
	Incapacity related	2.6	2.8	2.5	2.8	0.2	7.7%
	Health	6.4	6.1	8.1	8.0	1.6	25.0%
	Family	2.3	2.6	2.8	2.9	0.6	26.1%
	Active labour market programmes	1.1	0.9	0.8	0.9	-0.2	-18.2%
	Unemployment	2.9	2.8	3.7	3.6	0.7	24.1%
	Housing	..	0	0.2	0.2	0.2	
	Other social policy areas	0.5	0.4	0.8	0.7	0.2	40.0%
	Total	24.9	24.5	29.1	29.4	4.5	18.1%
Mandatory private	Old age	0	0	0	0	0	
	Survivors	0	0	0	0	0	
	Incapacity related	0	0	0	0	0	
	Family	0	0	0	0	0	
	Other social policy areas	0	0	0	0	0	
	Total	0	0	0	0	0	
Voluntary private	Old age	0.8	1.2	1.3	1.1	0.3	37.5%
	Incapacity related	0.5	0.3	0.4	0.4	-0.1	-20.0%
	Health	0.4	0.4	-0.1	-20.0%
	Other social policy areas	0.3	0.2	0.1	0.1	-0.2	-66.7%
	Total	1.6	1.7	2.3	2.1	0.5	31.3%

Source: OECD SOCX database, data extracted on 29 May 2015 from OECD Stat.

2. Occupational pensions: widespread but weakly funded

Belgium is classified as a conservative-corporatist welfare state but its pension system only fits the social insurance model to a limited extent (De Deken 2011). The scheme for private-sector workers offers high minimum benefits and low maximum benefits for all pensioners with a standard employment record. Wage-earners are offered 60%

of their average past earnings if they are single or live in dual-earner households and 75% if they head single-earner households. The scheme is characterised by a substantial degree of redistribution, as there is no upper earnings limit for contributions, while the wages taken into account in the calculation of benefits are capped (53,528.57 euros in 2015²) (De Deken 2011). The income-replacement function only applies to private-sector workers with a low to median income; better-off workers cannot maintain their income position in retirement. In that respect, a supplementary pension may help to increase the replacement ratio as shown in Table 2.

Table 2 DC /DB Plans: average net replacement ratio based on salary³

Salary (euros/year)	Net replacement ratio statutory pension ⁴	Net replacement ratio supplementary pension		Net replacement ratio statutory and supplementary pension	
		DB	DC	DB	DC
0–30,000	71%	6%	5%	76%	76%
30,000–40,000	69%	9%	7%	78%	76%
40,000–50,000	67%	11%	9%	78%	76%
50,000–65,000	60%	17%	12%	77%	72%
65,000–100,000	47%	26%	17%	73%	64%
100,000 and more	30%	38%	26%	68%	56%

Source: Pension Reforms Committee 2020-2040 (2014).

2.1 The origin of occupational pensions

Looking at the recent evolution of OW in Belgium, occupational pensions are of particular interest, as they only developed over the last three decades⁵. In the 1980s, policymakers – supported by employers and insurers – progressively reduced the generosity of statutory pensions in order to contain increasing costs resulting from PAYG systems and demographic change, while trying at the same time to encourage the development of supplementary pensions (Naczyk 2013). In 1982 the wage indexation of the caps on reference wages was replaced by price indexation. This policy (in place until 2003) transformed statutory pensions into a basic benefit, failing

2. The federal government announced in January 2016 its intention to reform the pension scheme for salaried workers, in particular by raising the ceiling. This measure will be part of the second phase of the pension reform decided by the Michel Government, expected to take effect in 2017 at the earliest.
3. Information provided by Assuralia according to a representative sample of company pension plans taken out with insurers.
4. The replacement rates (RRs) presented here are significantly higher than those available in the OECD data source (OECD 2013). They are not comparable, as substantial differences exist in the calculation methods used for these indicators. The RRs calculated by the Belgian Pension Commission are based on a significant sample of administrative records while the OECD estimates are derived from their tax-benefit model and its underlying assumptions related to wage levels, inflation, growth, etc....
5. The OW debate surfaced only recently in Belgium, mainly focused on supplementary pensions. As a consequence, academic literature on OW is very scarce. A more important stream of literature is produced by professional bodies providing services to enterprises, mainly in the field of human resources management (Ghailani *et al.* 2013). The relative invisibility of the topic of OW in Belgium implies also that data about this topic is rare. There are no detailed scientific databases on the diversity of OW.

to maintain middle-class living standards and encouraging those on high incomes to look for supplementary arrangements (Naczyk 2013). The government introduced generous tax incentives for personal pension savings accounts managed by financial companies and forced employer-managed schemes to move from book reserves to funding in 1985. These schemes were challenged by insurers for being poorly managed, and by the state and trade unions which suggested limiting employers' prerogatives over supplementary pensions. As a consequence, the government launched discussions about changes in the governance of supplementary pensions in the late 1980s (Naczyk 2013).

According to Arcq and Blaise (1998), trade unions were sceptical about increasing the role of occupational schemes fully controlled by employers, who used them to retain their high-skilled workers and thereby dualised the workforce. But at the same time, they were unable to stop the state pension cuts decided by the government. At their request, the government proposed some rules regarding the vesting period and the portability of vested rights across companies and called for greater union involvement in designing and supervising the schemes. Insurers strongly protested and no agreement between social partners was reached (Naczyk and Seeleib-Kaiser 2015).

In 1992 the government initiated a broad discussion on the future of the pension system, putting pension privatisation back on the agenda. It proposed to maintain employer autonomy in purely employer-sponsored plans, while plans with employee contributions would have to be negotiated through collective agreements. Despite employer opposition, the *Loi relative aux regimes de pensions complémentaires* (Occupational Pension Act) was adopted in 1995⁶. This reduced employer prerogatives over company-sponsored pensions, strengthened co-determination rights in the second pillar, and made occupational pensions more inclusive by regulating membership rules and by facilitating the portability of acquired rights from one employer to another (Naczyk 2013). As recalled by Naczyk and Seeleib-Kaiser (2015), unions representing high-skilled workers in the metalworking industries tried to thwart the expansion of individual pension plans managed by financial companies and sought to expand inclusive occupational plans through industry-level collective agreements with employers. The federation of metalworking industries (Fabrimetal) played a central role when it signed a collective agreement creating a sector-wide scheme for blue-collar workers introducing elements of solidarity and recognising the role of social partnership in the expansion of supplementary pensions. The timing of the agreement coincided with the 1999 negotiations on the formation of a new federal government. Fabrimetal approached some of the negotiators to request changes in existing regulations on occupational plans in order to implement its specific proposals. The Minister of Social Affairs, Frank Vandenbroucke, promised to respond to their demands. This led to the adoption of the *Loi sur les pensions complémentaires*, the so-called *Vandenbroucke Law*⁷ on occupational pensions in 2003 (Naczyk 2013).

6. Occupational Pension Act of 6 April 1995, the so-called *Colla Law*.

7. Occupational Pension Act of 28 April 2003, the so-called *Vandenbroucke Law*.

Hoping to revitalise the collective bargaining system, in crisis due to tight constraints imposed by the state on wage bargaining, the social partners actively participated in the preparation of the reform (Naczyk and Seeleib-Kaiser 2015). The new law sought to abandon the voluntary nature of the schemes by encouraging the social partners to establish industry-level pension funds through collective agreements (Naczyk 2013). It provided a unified framework for all supplementary pension schemes, both at company and sector level, and tried to make them accessible to the largest possible number of employees by providing fiscal incentives. It included elements of solidarity and gave social partners at both company and sector level great flexibility to set up and manage these schemes.

These attempts to broaden access to occupational pensions could be qualified as successful, as 75% of workers are currently covered by a sectoral or company pension scheme. However, these supplementary pensions do not yet constitute a valuable complement to the statutory pension due to low contribution rates for sectoral pension plans and the even lower ones for company pension plans. Besides, despite this wide coverage, access and the level of benefits remain unequal among workers. Marked differences are present regarding status, gender, company size, position and sectors (Ghailani and Peña-Casa 2016). Occupational pensions play a more significant role for people with higher earnings who are usually offered better pension plans with higher contribution rates. Given the low ceiling applied to maximum wages for calculating statutory pensions (53,528.57 euros in 2015), those in higher income groups are faced with a sharp fall in their income after retirement (see Table 2) but they also have better opportunities to make up for the loss through occupational and personal pension schemes.

2.2 Regulation of occupational pensions

Occupational pensions in Belgium are regulated to a large extent by state legislation. The *Vandenbroucke Law* (2003) aims at expanding access to occupational pensions to all employees of a company or the entire workforce of an industrial sector. It provides for a unified framework for all supplementary pension schemes and gives social partners at both company and sector level comprehensive room for manoeuvre to set up and manage these schemes, subject to parity-based co-determination.

The institutional architecture of the Belgian second pillar can be described in five aspects: the initiator of the pension arrangement; the scope of the pension commitment defining access to the plan; the type of pension plan; the form of pension commitment; and the kind of pension institution implementing the pension plan (De Deken 2011).

Since the adoption of the first law on occupational pensions in 1995, the initiative to set up pension plans has started to shift from a unilateral voluntary decision by individual employers for (some of) their employees towards a collective agreement between the social partners, reached in the joint committee (*commission paritaire*), to

cover all employees in an industry. These collective agreements are binding for all employers and apply to all employees in the sector covered by the joint committee. However, an individual employer may opt out of the sectoral pension scheme and implement its own scheme under two conditions: such an opt-out possibility must be explicitly included in the sectoral collective agreement and the company pension scheme must provide benefits at least equal to those of the sectoral plan (Trampusch *et al.* 2010). By the end of 2013, 15% of workers in a sector with a sectoral pension scheme were not covered by the latter (FSMA⁸ 2015). Company-based individual pension schemes are independent pension commitments made and financed by an employer for a specific category or individuals. Supplementary pensions granted to individuals are only permitted when a pension scheme already covers all workers in the company.

Currently, 2,525,394 workers belong to a supplementary pension scheme, i.e. 75% of the Belgian workforce (Pensions Reform Committee 2020-2040, 2014). By the end of 2013, 45 sectors had set up one or more pension schemes, covering 1,223,451 active workers – up from 757,000 in 2009 and 1,118,295 in 2011 (FSMA 2013a). More than half of them work in five of the biggest sectors: metalworking, construction, the hotel industry, healthcare and the Flemish non-profit sector (FSMA 2015). Contrary to political expectations, the *Vandenbroucke Law* seems to have led to a relative increase in the coverage rate of occupational pensions, as some of the largest sectoral plans already existed before its adoption in 2003. They were simply converted to conform to the new standards (De Deken 2011). The increase in coverage has primarily benefited blue-collar workers⁹. Whereas the ratio between blue- and white-collar employees in the workforce is now balanced, before the supplementary pension laws, the latter outnumbered the former by 1:4 in pension funds and by 1:5 in group insurance schemes (Assuralia 2004). As sectoral plans are concluded in joint committees for manual workers, their share has significantly increased. By the end of 2013, 70% of workers covered by such a sectoral scheme were blue-collar workers (FSMA 2015).

There are two main forms of collective pension plans: an ordinary pension commitment that only guarantees an actuarially determined old-age pension and a social pension commitment which, in exchange for certain additional tax exemptions, has to cover a series of additional risks. These may include continued payment of pension premiums during involuntary temporary leave of up to one year, maternity leave, bankruptcy of the employer, and periods of reduced working hours up to one year (Ghailani and Peña-Casas 2016). To qualify as social, a collective pension plan must be initiated by a collective agreement and the costs of the extra benefits must equal at least the value of the tax exemption. To encourage social partners to fulfil the conditions of a social pension plan, contributions to such plans are exempted from the wage norm. Despite this incentive, social pension plans remain the minority. By the

⁸ FSMA is the financial services and markets authority.

⁹ Those sectors include construction, the oil industry, metal engineering and electronics, woodworking and furniture manufacturing, energy, printing and publishing, urban transportation in Brussels, Flanders and Wallonia, and employees of the port of Antwerp (Assuralia 2004).

end of 2013, less than half of sectoral pension schemes could be described as social schemes (FSMA 2015). The same observation can be made at company level, where the number of social pension commitments is also low. The complexity of the social pension obligations and the difficulty in financing risks covered by social pension obligations appear to be key reasons why companies and sectors are reluctant to enter into such obligations (Pension Reforms Committee 2020-2040 2014).

The financial reserves of supplementary pension schemes in 2012 amounted to some 70 billion euros (18.6% of GDP). Compared to 2008 (54.1 billion euros, 15.6% of GDP), this represents an increase of € 15.9 billion (approximately 30%) (FSMA 2013b:41). Contributions can be paid by both employees and employers. However, in the majority of sectoral schemes contributions are only paid by the employer, while in company plans employees are often required to make a small contribution¹⁰. There is a strong tendency to waive employee contributions because of the limitations on tax exemption and the gain in employer social security contributions (EURACS 2015). The normal contribution rate is 1% to 1.75% of gross yearly wages at sectoral level (FSMA 2015). Contributions to company pensions are on average 1.35% for blue-collar workers and 3.20% for white-collar workers with major differences between sectors, as the chemical, automotive and ICT sectors are known to conclude more generous plans for their employees (Pension Reforms Committee 2020-2040 2014). Contributions to company plans have decreased over time (Table 3).

Table 3 Average contribution rate to company pension plans over time¹¹

Starting year of the plan	Average contribution rate
Up to 1984	4.14%
1985-1989	4.04%
1990-1994	3.60%
1995-1999	5.02%
2000-2004	4.49%
2005-2009	4.19%
From 2010	3.52%

Source: Pension Reforms Committee 2020-2040 (2014).

Since the *Vandenbroucke Law*, the employer must guarantee, for all employee contributions, a minimum return on pension reserves that is equal to the technical interest rate of insurance contracts, currently 3.25%. The minimum return on employers' contributions in DC plans and cash balance is 3.75%. For contracts subscribed to since January 2016, this minimum return is replaced by a variable rate set annually. It cannot be lower than 1.75% or higher than 3.75%. The fiscal advantages applicable to contributions made to the second-pillar schemes were

10. A contribution of 1% to 2% of earnings up to the social security ceiling, and usually contribute in the range of 4% to 6% of earnings above the Social Security ceiling.

11. Information provided by Assuralia according to a representative sample of business plans taken out with insurers.

reduced by the 2011 pension reform package, which also stipulated that supplementary pension benefits taken up before the age of 62 will be taxed at a higher rate. However, they still enjoy a fairly favourable fiscal and para-fiscal treatment. Employees' contributions are eligible for tax relief of 30% of the amount contributed and are treated as salary (thus subject to the same social security contributions, 13.07%). Employer contributions are exempted from income tax but are subject to the 80% rule whereby pension entitlement cannot accumulate more than four-fifths of an employee's gross wage. These contributions are subject to an insurance tax of 4.4%, except for social pensions which are exempted, provided that the extra commitment at least equals the tax exemption. Employer contributions are also subject to a reduced social security contribution of 8.86%. Employers can fully deduct pension contributions from a company's taxable profit. There is no specific code in the tax return for this kind of deduction. It is therefore not possible for the tax administration to estimate the budgetary cost of such deductions. Returns on investments are not taxed (Ghailani and Peña-Casas 2016).

Benefits are mostly (72%) paid out as a lump sum. Although legally possible, the payment of annuities is rare. Distributions of capital are also part of the approach to wages in Belgium. Supplementary pensions are too rarely perceived as an element of the pension, but rather as a one-off deferred salary payment subject to a tax benefit and para-fiscal treatment (Devoet 2014). The average capital from the second pillar is 94,677€, i.e. a monthly supplementary pension income of 575€ per month. However, median capital is 34,541€, i.e. a monthly supplementary pension income of only 206€ (Berghman *et al.* 2010). Benefits paid out as a lump sum are subject to a one-time tax varying between 16.5% and 20% of the capital resulting from employer contributions. The tax depends on the worker's age at retirement and is reduced to 10% if the worker remains in employment until the age of 65. Capital resulting from employee contributions is subject to a tax of 10%. Annuity payments are subject to income tax and to a reduced social security contribution. In addition, benefits are subject to a solidarity contribution which varies from 0% to 2%.

2.3 Unequal distribution among workers

All salaried employees must be admitted to the pension plan as soon as they belong to a category described in the pension rules. A waiting period is possible but cannot be extended past the 25th birthday and discrimination cannot be made on the basis of age, sex, or employment (full- or part-time). As already mentioned, 75% of workers belong to a supplementary pension scheme (Pensions Reform Committee 2020-2040, 2014). At sectoral level, 70% of those covered by such a scheme are blue-collar workers, and 64% are male (FSMA 2015). A survey conducted in 2014¹² confirms that male workers

12. The KUL survey was carried out online and covered 33,000 workers. The survey provides details of the individual characteristics of the workers (coverage, sex, age, education, type of contracts, working time) and the economic sectors of their employers. However, the information on OW in this survey is limited to broad questions about the provision of supplementary pensions.

are more likely to be covered and that the level of coverage is directly linked to the level of education, the type of contract (open-ended vs fixed-term), the type of working time arrangement (full-time vs part time), the sector (banking and insurance, chemicals and pharmaceuticals at the top) and company size (KUL 2014).

In 2011 about a quarter of new pensioners (66 to 69) had a supplementary pension. Differences in access and in the supplementary pension level were observed based on gender, the amount of the statutory pension and career: recently-retired male workers, whose statutory pension was within the top 20% of such pensions and with a career spanning between 40 and 45 years, were more likely to benefit from a supplementary pension than other categories of workers (CeSO 2014).

Despite the high coverage rate, sectoral pensions are almost completely absent in certain sectors of the economy (such as distribution, business-to-business services and textiles); contract civil servants (except for contractual employees in many Flemish local government posts) and atypical workers (e.g. workers with a service voucher employment contract and temporary agency workers) remain ineligible for any supplementary pension plan; differences remain between managers, white-collar and blue-collar workers. In some companies, only managers and white-collar workers fall under the company pension plan, while blue-collar workers have to join a sectoral pension scheme, provided such a scheme exists (Pensions Reform Committee 2020-2040 2014).

In Belgium, supplementary pension schemes are administered either by an insurance group or by an institution for occupational retirement provision (IORP). Both sectors and employers clearly prefer their pension plans to be managed by an insurance group, as is the case with 75% of sectoral pension schemes covering 60% of workers with a supplementary pension (FSMA 2015). This preference is attributed to the certainty of receiving a guaranteed return, solvency and full service from the insurer (administration, reporting, etc.) (Assuralia 2009).

Most occupational pension arrangements formally require some employee involvement in the governance of the pension institution. In the case of company plans, the works council and the workers' representative(s) have to be consulted about the financing method, the application and interpretation of the pension agreement and the choice of a pension administrator. This influence can however be avoided in the case of an autonomous pension plan without employee contributions and with no social component. This partly explains why employers sometimes choose to bear the entire funding of their company schemes (De Deken 2011).

The *Vandenbroucke Law* put a strong emphasis on the governance of occupational pension funds by the social partners, requiring parity control for sector and company plans with a social component and with employee contributions. In cases of a pension scheme administered by an IORP, the fund is managed by a parity board with 50% of board members being staff representatives nominated by the unions or by the work council. The parity board often does little more than choose a consulting company, which in turn selects a fund manager. When the organisation of the pension plan is

entrusted to an insurance company, there is no joint management obligation, though there is an obligation to establish a supervisory committee. In contrast to the joint management board, this committee is not directly involved in the financial governance but only has an information right with respect to the insurance company's investment policies. It receives an annual declaration on the principles underlying the investment policy and a transparency report (BFIC 2007).

As pointed out by De Deken (2011), stakeholder influence is limited to formulating the conditions of the pension agreement during the collective wage bargaining that precedes the establishment of the plan, choosing a financial service company to implement the agreement, and specifying the conditions of the insurance contract. Although employee involvement in determining the input for contracting out the pension plan may help protect the long-term financial interests of workers, it does not allow them to influence the way in which the funds accumulated on their behalf are invested. Control over investment remains solely in the hands of the financial service firm (De Deken 2011).

2.4 Recent debates

The performance requirement set forth in the *Vandenbroucke Law* has been challenged in recent years by the Federation of Enterprises in Belgium (*Fédération des entreprises de Belgique*, FEB/VBO) and the insurance group lobby, citing the crisis and the low interest rates since 2008-2009. This question has been poisoning social dialogue for nearly 3 years. The social partners have found it very difficult to agree on issues such as sustainability and the attractiveness of the second pillar. For the two largest unions (The General Federation of Belgian Labour (*Fédération Générale du Travail de Belgique*, FGTB/ABVV) and the Confederation of Christian Trade Unions (*Confédération des Syndicats Chrétiens*, CSC/ACV), it was essential to end up with an attractive product that makes supplementary pensions a true top-up to the statutory pension - an impossible goal without a proper guaranteed return. On the employer side, the FEB emphasised the sustainability of the system: a lack of sustainability should not be allowed to jeopardise this important pension product. In October 2015, the social partners reached an agreement endorsed by the Government: the 3.25% guaranteed interest rate (on workers' contributions) and 3.75% (on employer contributions) are replaced for newly subscribed (from 1st January 2016) contracts by variable rates set annually. Unions have nevertheless preserved the essential point in their eyes, obtaining a threshold below which the guaranteed return will not fall: this minimum yield will be 1.75%. A new ceiling has also been agreed at 3.75%¹³.

13. The agreement signed by the social partners on 16 October 2015 was endorsed by the government through the Law of 18 December 2015 aiming to ensure the sustainability and the social nature of supplementary pensions and to strengthen the complementary nature with respect to pensions, Belgian Official Gazette December 24, 2015.

Recent developments moving towards abolishing the distinction between blue-collar and white-collar workers may influence the evolution towards a general application of second-pillar schemes. Belgian labour law has been built on the distinction between blue-collar workers and white-collar employees. In 2011, the Belgian Constitutional Court ruled that this distinction was no longer appropriate to the way in which work is organised today and therefore deemed it illegal to offer different employment terms and conditions to blue-collar and white-collar employees¹⁴. Consequently, the Belgian government has to remove all differences in benefits based on this distinction. The first issue to be addressed on the long road to harmonisation is occupational pension entitlements. An Act of 5 May 2014 established a legal framework implementing a phasing-out of differences in occupational pension schemes by 1 January 2025. Harmonisation will be implemented in three stages within a ten-year transitional period. Negotiations will then begin at industry level between the joint committees concerned, with a view to reaching an agreement which organises the abolition of the differences of treatment by 1 January 2025. This agreement has to be settled in an industry-level collective agreement before 1 January 2023 (Linklaters 2014).

While occupational pensions prove to be of less importance for pensioners' incomes, Belgium appears to be particularly attractive for multinationals setting up pan-European pension funds. When transposing Directive 2003/41/EC on the activities and supervision of Institutions for Occupational Retirement Provision¹⁵ (IORP), the Belgian legislator took this opportunity to work out a coherent and autonomous legislative framework, offering a number of advantages over other European countries. The law has been described on several occasions as revolutionary, with reference mainly to the Organisation or the Financing of Pensions (OFP), a flexible legal entity which offers the basic legal criteria necessary for any pan-European plan, and which enjoys a favourable tax regime in respect to both direct and indirect taxes. Provided that the OFP avoids being taxed on non-deductible costs, and that the extensive foreign investments are well-chosen or well-structured, the OFP can aim at overall zero taxation (Becquaert 2008). In doing so, the legislator has paved the way for Belgium to become a magnet for international IORPs (Daems 2007). On October 1st 2015, there were 14 IORPs pursuing cross-border activity in 11 countries, 10 EU Member States and Switzerland.

3. Occupational unemployment protection: Belgium as a specific case

Occupational Welfare in the field of unemployment insurance is of less importance. The Belgian unemployment protection system consists only of statutory unemployment insurance and there is no supplementary occupational scheme. The high level of statutory protection and, as we see below, the full involvement of social

¹⁴. Constitutional Court, ruling of 7 July 2011.

¹⁵. Official Journal L 235, 25 September 2003.

partners in its administration seem to be compatible with the lack of occupational schemes in the field.

There is however a hybrid scheme called ‘temporary unemployment’ (TU) that has been part of the Belgian unemployment protection system since the late forties, at least for blue-collar workers in the private sector. The government decided on a temporary extension of the scheme to white-collar workers during the recent crisis, enabling firms to reduce working time in the event of economic difficulties. It became permanent at the employers’ request in 2012. TU is thus a particular form of unemployment protection, accessible under specific conditions related to a company’s situation, and foreseeing a specific status for the temporary unemployed, other than standard unemployment. TU combines statutory unemployment protection with occupational protection (Ghailani and Peña-Casas 2016). Access to the TU scheme is now theoretically open to all workers: full-time, part-time, those on fixed-term contracts, and also to agency workers (at least among blue-collar workers). However, there are very marked differences among them, as the TU scheme remains overwhelmingly used for male blue-collar workers in certain sectors such as manufacturing or construction (ONEM 2015).

3.1 Statutory unemployment protection

In Belgium, protection against unemployment is embedded in the system of social protection, characterised by a two-tier structure combining Bismarckian social insurance with a residual non-contributory minimum income guarantee. Unemployment insurance (UI) is provided through a contributory compulsory scheme. As part of a typical Bismarckian system of social protection, the UI scheme is mainly financed by social contributions paid by workers and employers, with complementary funding by the national government. This reflects the tripartite nature of industrial relations and social pacts in Belgium.

The strong involvement of social partners in social security institutions usually classifies Belgium as part of a particular cluster of countries (alongside Denmark, Sweden and Finland) known as the Ghent system. This is the name given to an arrangement in some countries whereby social partners are strongly involved in the administration and management of social protection schemes, combined with a relatively high level of union density in these countries. The main responsibility for welfare payments, especially unemployment benefits, is held by trade unions, rather than a government agency. However, Belgium has a singularity which usually leads it to be classified as a partial Ghent system in the literature. In Belgium, trade unions retain an important role in the provision of benefits, but not an exclusive one, as unemployment benefits can also be paid through a public institution independent of unions, the Auxiliary Fund for Payment of Unemployment Benefits (*Caisse auxiliaire de Paiement des Allocations de Chômage*, CAPAC). It is the National Employment Office, a public institution, which is in charge of managing unemployment funds and their subsequent distribution between trade unions and CAPAC so that these can pay

the unemployment benefits. Trade unions nevertheless remain the main intermediaries for the payment of unemployment benefits in Belgium, notably because of the existence of additional incentives to union membership (Van Rie *et al.* 2011).

3.2 The temporary unemployment scheme: general social welfare with occupational features

In the following we look at temporary unemployment. TU for economic reasons was introduced into Belgian legislation in 1944¹⁶ and is historically limited to blue-collar workers¹⁷. This limitation was motivated by the need to compensate for the lower employment status and rights of blue-collar workers. TU is a well-established procedure in Belgium, allowing workers to keep their jobs, although they have to live temporarily on a lower income, and employers to save costs in difficult times, while retaining workers and their experience. In the aftermath of the 2007 crisis, Belgium introduced a set of temporary anti-crisis measures enabling firms to reduce working time in the event of economic difficulties. One of these measures was the extension of the TU system to white-collar workers. In 2010, the employers asked that this temporary extension be made permanent. A 'lively' debate began between the social partners, but failed to produce an agreement. Since January 2012 for an indefinite period, there has been a separate rule for suspending white-collar employees' employment contracts in the event of a lack of work. The extension of TU to white-collar employees is a sensitive issue in Belgian industrial relations, as it touches on the fundamental (until now) structuring parameter of social dialogue organisations, as well as work and employment regulation: the distinction between blue- and white-collar workers. Moreover, on 7 July 2011, the Constitutional Court ruled that this distinction in working contracts is discriminatory, and gave the Belgian State two years to abolish it. In 2011, the then new federal government promulgated a law eliminating the difference in terms of notice of dismissal, and also extending access to TU to white-collar employees (Van Rie *et al.* 2011, Eurofound 2009, Vandaele 2006).

As stressed above, the TU scheme in Belgium combines general social welfare with some occupational features. It could be considered as a kind of hybrid scheme, combining both spheres of unemployment protection. On the one hand, the TU scheme is part of the Belgian social protection system, as a particular form of general unemployment insurance. Access to the scheme is statutory as it is set by law and open to all workers (full-time, part-time, those on fixed-term contracts and also agency workers). On the other hand, the TU scheme also has features related to Occupational Welfare, in that it only concerns workers employed in companies initiating a specific procedure to access the scheme. Employers have to top up the unemployment benefit granted by the general unemployment insurance scheme with a daily lump sum, the amount of which is set

16. Decree of 28 December 1944 on workers' social security and law of 3 July 1978 on employment contracts.

17. In the European context, Belgium had the strictest eligibility criteria for TU, allowing only blue-collar workers to access the scheme (Eurofound 2010).

through collective bargaining, either with reference to sectoral collective agreements, or at company level in the absence of the latter. Moreover, to gain access to TU, employers must also fulfil specific social dialogue obligations in terms of informing workers and their representatives about elements such as the causes of the economic difficulties justifying the use of TU, the duration and the nature of its use and the period of notification. Workers benefiting from the TU scheme have a hybrid status. They interact with the National Employment Office in the same way as any other unemployed person, but they form a particular group within the unemployed as they are not subject to any activation obligations. They remain employees, as they keep their contractual relationship with their employer (Ghailani and Peña-Casas 2016).

3.3 Main characteristics of tempory unemployment schemes

Under the TU scheme, a worker is temporarily unemployed when he/she is bound by an employment contract whose execution is totally or partially suspended for specified reasons, including economic ones¹⁸. The conditions for the National Employment Office to recognise an enterprise as being in difficulty are more demanding for the white-collar scheme than for the blue-collar one: the company must either have experienced a substantial decrease of at least 10% (from 01.01.2012) of turnover, production or orders in one of the four previous quarters preceding the application for economic unemployment, compared to the same quarter of 2008, or a certain number of days of economic unemployment of workers (at least 10% (from 01.01.2012) of the total number of days reported to the National Social Security Office (ONSS).

Firms with a trade union delegation need to specify the modalities of the request for TU in a sectoral or a company collective agreement. If there is no social agreement, due to a failure of social dialogue or the absence of unions, the firm may produce a 'company plan' that needs to be approved by a tripartite commission (social partners and government) at the Ministry of Employment. In any case, these agreements have to explicitly mention that they were concluded in the context of a full or partial suspension of work for economic reasons. They must also mention the supplementary allowance to be paid for the duration of the measure.

3.4 Replacement rates: unemployment benefit combined with an employer income supplement

Temporarily unemployed workers have no obligation to register as job seekers at the employment office and are thus exempted from the obligation to participate in activation programmes. However, they can benefit from the training measures offered

18. Reasons for temporary unemployment: temporary economic reasons; weather; accidents; force majeure; force majeure due to medical reasons; company closure due to annual holidays; company closure due to compensatory rest period in the framework of reduced working time; strike/lockout; dismissal of a protected employee.

to the unemployed by the employment offices. They are granted unemployment benefits limited in time and related to the persistence of the economic difficulties justifying the employer's demand. The TU benefit is calculated on the basis of capped gross salary (65%) and paid through the same channels as UI benefit: trade unions or the public payment agency. The level of TU allowances increased in gross terms between 2012 and 2014 (except for the maximum allowance for heads of households and single persons). However, in net terms it has decreased since 2012, as taxation of the benefits has been raised. Net daily TU allowances vary from 32.08€ to 48.81€ for a head of household; from 26.95€ to 48.81€ for a single person, and from 20.21€ to 48.81€ for a cohabitant (Ghailani and Peña-Casas 2016).

On top of the income provided by the unemployment allowance, the temporarily unemployed worker is also entitled to an income supplement. This supplement is funded by the employer or by the Existence Security Fund via a collective agreement. The level of the supplement paid by the employer is determined by the collective agreements on TU made at sectoral or company levels¹⁹, or in a 'company plan' if there is no social dialogue²⁰. The minimum amount varies between 2 and 5 euros per day.

A 26.75% professional tax is collected on all types of temporary unemployment (economic reasons, technical incidents or weather) as of 1 January 2013. This rate also applies to all additional allowances paid by the employer or a social fund.

3.5 Unequal distribution among workers

Access to the TU scheme is now theoretically open to all workers: full-time, part-time, those on fixed-term contracts, and also agency workers (at least blue-collar ones). However, there are very marked differences among them. The TU scheme remains overwhelmingly used for blue-collar workers: in 2014, TU payments to white-collar workers represented a mere 2.4% of total payments. This could be partly explained by the long-standing restriction of TU to blue-collar workers, while access was only recently been opened to white-collar workers. The predominance of blue-collar workers implies also that the main economic sectors using the measure are sectors with higher numbers of such workers, such as manufacturing or construction, although these show a reduction in TU compared to 2007. In some service sectors (services to enterprises, other services) there is also significant use of TU, and this has increased considerably since 2007. Another consequence of the massive presence of blue-collar workers among TU recipients is a strong gender imbalance, as far more

19. If the firm also employs blue-collar workers, the employer's supplement for white collars should be at least equivalent that for blue-collar workers. If there are no blue-collar workers in the firm, the supplement should be at least equivalent to the amount laid down by an existing sectoral agreement if there is one, or at least equal to 2 euros a day if there is none.

20. In the case of a company plan in a firm employing blue-collar workers, the supplement for white-collar workers should be at least equivalent to that of blue-collar workers or at least equivalent to 5 euros a day if the supplement for blue-collar workers is lower than 5 euros a day. In the absence of blue-collar workers in the company, the same rule applies: the supplement should be at least equivalent to the amount laid down in an existing sectoral agreement if there is one, or at least equal to 5 euros a day.

men (77.7% of the total recipients of TU allowances in 2014) than women are involved in the scheme, across all age groups (ONEM 2015).

3.6 Recent debates

As regards temporary unemployment, the trade union representatives interviewed confirm the finding that this was not an essential issue in Belgian social dialogue. Trade unions began to react to the issue of TU when it was put on the agenda by employers and the government as a flexibility tool for use in periods of crisis. There were some tensions between employers and the government when the measure was permanently extended to white-collar workers in 2012. Trade union reticence can be partly explained by the fact that for a long time the measure was restricted to blue-collar workers, who still represent the bulk of unionised workers in Belgium. Social dialogue on TU had therefore already taken place previously. The main challenge for trade unions was to ensure that blue-collar workers receive the most advantageous treatment when the trade-off is made between provisions for blue- and white-collar workers. Again, this has to be understood in the general context of the elimination of the traditional distinction between blue- and white-collar workers, which concerns the whole range of labour relations in Belgium. Other challenging points mentioned by the interviewees were the need to limit the number of days of TU and to favour in-house training rather than forced inactivity. Apart from these points, there are no specific trade union strategies on TU, the principal preoccupation being the maintenance of wage levels and acquired workers' rights in the current context of lingering crisis. The planned phasing-out of the distinction between blue- and white-collar workers will be the main focus of trade union preoccupations in the forthcoming years, as it constitutes a fundamental re-organisation of Belgian labour relations (Ghailani and Peña-Casas 2016).

Conclusions

This chapter has painted a picture of Occupational Welfare in Belgium. Looking at pensions and unemployment-related schemes, the chapter has shown that occupational programmes have evolved very differently in different policy areas. While occupational unemployment-related schemes barely exist – with the partial exception of Temporary Unemployment schemes –, occupational pensions have seen an increase in coverage (75% of the workforce is covered). As stressed above, these different trends seem to be the consequence of different institutional landscapes and stakeholder strategies in the policies under scrutiny. The unemployment-related policy legacy is in fact characterised by the partial Ghent system, a system not leaving much room for supplementary protection. Social partners are closely involved in its administration and support it. By contrast, in the field of pensions, the first pillar guarantees the maintenance of a worker's financial status in old age only for those with earnings up to the median. One would expect an expansion of occupational pensions for higher-income groups. Besides, the corporatist collective bargaining system and high trade

union density should have facilitated the development of a comprehensive second-pillar pension system (in line for instance with the Dutch experience). Yet, despite the efforts to develop widespread occupational pensions, they remain meagre: while 75% of wage earners are covered, the schemes only provide for a low level of contributions that are likely to produce inadequate supplementary benefits for future pensioner generations. Because of wage moderation, allocation of the resources necessary for a well-funded second pillar would result in giving up wage growth or even cutting real wages. In that context, most Belgians rely upon alternative means to provide for their old age, including widespread full home ownership, bank deposits, state bonds and savings accounts. These particular forms of extended third-pillar provisions may also partly explain the contradictions in the Belgian situation (De Deken 2011).

Current debate on pensions sheds further light on the divergent stakeholder interests and the problems for further developing Occupational Welfare in Belgium. The current government is particularly aware of the inadequacy of supplementary pensions and is calling for the use of social dialogue to earmark a percentage of future salary increases for contributions to supplementary pension plans, in order to achieve a minimum contribution level of 3% of salary in each sector. This will be a big challenge, as the attractiveness of supplementary pensions has been questioned since the recent reforms, for instance reducing fiscal advantages applying to second-pillar contributions. What is more, the performance requirement provided by the *Vandenbroucke Law 2003* has been challenged in recent years by the Belgian Employers' Federation (FEB) and the insurance lobby against the background of the crisis and the low interest rates since 2008-2009. Their demand for an adaptation of the required returns was met in 2015: the 3.25% guaranteed interest rate (on workers' contributions) and 3.75% (on employer contributions) have been replaced for newly-subscribed contracts (since 1st January 2016) by variable rates set annually. Both these decisions (cuts in tax incentives and required returns) could seriously undermine the government's ambition to strengthen the second pillar.

As pointed out by the Advisory Committee for the Pension Sector²¹ (2011), supplementary pensions are not likely to guarantee an increase in the income of pensioners to a satisfactory level. While second-pillar arrangements originally tended to provide additional benefits in the form of annuities, only a few schemes do so today. Instead, many schemes seem to constitute no more than a savings account with a minimal yield. The government²² has announced its intention to review the taxation of annuities and lump sums to create a more robust market for annuity products, encouraging pensions to be taken as an annuity rather than as a lump sum. However, insurers oppose the idea of making pension payments, which in fact incur specific risks that Belgian insurers do not currently run when paying out supplementary

21. The Advisory Committee for the Pension Sector formulates opinions to assist the Minister of pensions. Raadgevend Comité voor de Pensioensector, Jaarverslag 2011, Brussels, July 2012; <http://www.socialsecurity.fgov.be/docs/nl/compens/rapport-2011-nl.pdf>.

22. Government Declaration of 9 October 2014, http://www.premier.be/sites/default/files/articles/accord_de_Gouvernement_-_Regeerakkoord.pdf

pensions as lump sums. The main specific risk is that of longevity. This risk means roughly that the insurance company might have to continue paying the annuity from its own funds, once the capital paid in for the supplementary pension had been exhausted. In addition, annuities require closer monitoring than the one-off payment of pension capital. Therefore, administrative costs for managing pension plans are significantly higher. In addition, it should not be forgotten that for a monthly pension of a certain level, considerable reserves must be held, requiring the inflow of premiums for a sufficient amount or the need to achieve a significant return on the invested premiums. At present, neither of these two conditions seems to be fulfilled (Pensions Reform Committee 2020-2040, 2014).

Recent developments in the move towards abolishing the distinction between blue- and white-collar workers may influence the evolution towards a general application of second-pillar schemes. The long-term consequences of this fundamental change are however not all easy to foresee. It is for example not clear how all this will change the organisation of second-pillar pension arrangements. In terms of coverage, the easiest way to reach the same level for both categories would be to allow blue-collar workers to join the schemes for white-collar workers, but this would also be the most expensive option.

The divergent views of social partners on the role of occupational pensions seem to partially explain why these funds are not at the top of their agendas. Over the years, the trade union position on supplementary pensions has become even more critical, with the expansion of the second pillar not seen as a priority. Unionists argue that the increased importance of the second pillar illustrates the crisis of solidarity within our welfare system. It excludes workers in precarious employment, weak sectors, benefit recipients and the majority of women, and deprives the social security system and state budgets of resources that could be used to develop more solidarity-based social policies. Recent reforms will not, or only very slowly, reduce these inequalities. Unions are not developing a specific strategy to strengthen the second pillar, because, in their view, there is little point in doing so in the current economic context. They are more concerned about issues related to an increased retirement age and early retirement (Ghailani and Peña-Casas 2016). Employers, on the other hand, prefer a greater prevalence of third-pillar schemes, in that they consider occupational pensions to be heavily regulated and to involve costs for them. In the light of the above, it is clear that the government's ambition to improve future occupational pension benefits and expand their role in pensioners' income will not be easy to fulfil.

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