

Belgian Social Dialogue in a Nutshell

Manou Doutrepont
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Contents

Foreword	4
Stakeholders.....	5
Trade unions	5
Employer federations.....	10
Governments	12
Europe	12
The judiciary.....	12
The institutions of multi-employer dialogue.....	13
Dialogue between employers and unions at federal level	13
Summary.....	13
Inter-professional dialogue.....	13
Sectoral (branch) dialogue	15
General.....	15
Joint committees.....	15
Reconciliation services	16
Social funds	17
Sectoral training funds	17
Social dialogue at company level	17
General.....	17
Works council.....	19
Committee for Prevention and Protection at Work (CPBW/CPPT)	20
Trade union delegation.....	20
Pay structures.....	22
Legal institutions	24
The strict hierarchy of sources of law	24
Extension of collective agreements	24
Distinction between manual workers, white-collar employees and managers.....	25
The liberal right to strike.....	25
Obstacles to financial participation	26
No obligation to participate at board level.....	26
Some international comparisons of industrial relations and workers participation	27
European comparison of the most important features of the dialogue bodies.....	27
Collective bargaining coverage: sectoral and decentralised agreements, 2015-2016 (% of employees)	28
General overview	29

Foreword

This brochure provides an introduction to the Belgian social dialogue system. No more, no less.

It mainly focuses on providing the knowledge that managers need to be able to contextualise the social dialogue they experience within their companies.

A few comparisons with examples from abroad are intended to help foreign managers understand the Belgian system.

Readers are welcome to contact me if any of their questions remain unanswered.

Manou Doutrepont.

Co-founder Social Dialogue Network




Stakeholders

In Belgium we dance a three-way tango between trade unions, employers and the government. Europe sets the tempo. The judiciary monitors the situation.

Trade unions

There are three accredited organisations representing employees.

In order of size, they are:

-  ACV (Christian basis),
-  ABVV (socialist basis) and
-  ACLVB (social-liberal basis).

In practice, they form a cartel. There is no need for them to fear a fourth organisation, as the criteria for accreditation make it impossible to form a new union in practice (Law of 30 December 2009).

These three unions are inter-professional organisations. They cover all professions in all sectors and branches of activity, and even government activities. Professional organisations whose members exercise a certain profession only still exist in Belgium in the public and semi-public sectors.

The three trade unions each have their own ideology and interests, as well as their own political agenda. They are each other's rivals too, which becomes evident every four years during the social elections. Still, in many matters they present a united front, even though cracks sometimes appear in that front when one party stays at the negotiating table somewhat longer than the others. These 'cracks' are always short-lived because they hurry to close ranks again at the first opportunity available.

More than 3,400,000 Belgians are affiliated with a trade union (2017).

Besides employed workers, union members also include students, the unemployed, retired and sick workers. Even managers may be members of a union. The number of members continues to grow thanks to recruitment in the social sector, among office workers and civil servants.

The net level of union membership (number of members among employed workers) stands at around 55%. In contrast to almost all other OECD countries, the degree of union membership in Belgium has remained high.




The unions' success is grounded in the services they provide (such as their unemployment fund) and the low personal contribution required for membership (thanks to union premiums).

Unions in Belgium do not have legal personality and are not required to publish financial reports either. Nonetheless, it does not appear that they are in financial difficulty.

How close are the trade unions to the population? The answer is complex. In contrast to what some commentators believe, surveys have shown that the average Belgian believes trade unions are important. At national level, citizens are critical of their methods. At company level, employees value the activities of the unions.

Unions in Belgium play an important political role. They have recently demonstrated that they can influence the policy of the political majority by means of hard-line opposition in the form of national strikes.

Summary table showing the fundamental features of the Belgian trade unions

			
Origin of ideology	Catholicism (Rerum Novarum)	Socialism (Charter of Quaregnon)	Social liberalism
Structure	Centralised	Decentralised	Centralised
	2 centres for white-collar employees 4 centres for manual workers 2 centres for education 1 centre for the public sector 1 centre for sportspeople	1 centre for white-collar employees 4 centres for manual workers 1 centre for civil servants	
Logic	"Logic of influence" Productive coalition	"Logic of membership" Control	"Logic of influence"
Slogan	Your job is our work	Together we are strong	Union of the future
% members	50%	45%	5%
% social elections	51%	35%	9%

The unions' power is anchored in several laws. Probably the three most important ones are:

- ✚ the "liberal" right to strike, i.e. the freedom of workers to strike without restrictions;
- ✚ the exclusive authority to sign a collective bargaining agreement (Law of 5 December 1968);
- ✚ a near-monopoly on producing a list of candidates for social elections (Law of 20 September 1948).

They have two particular assets for recruiting and retaining members:

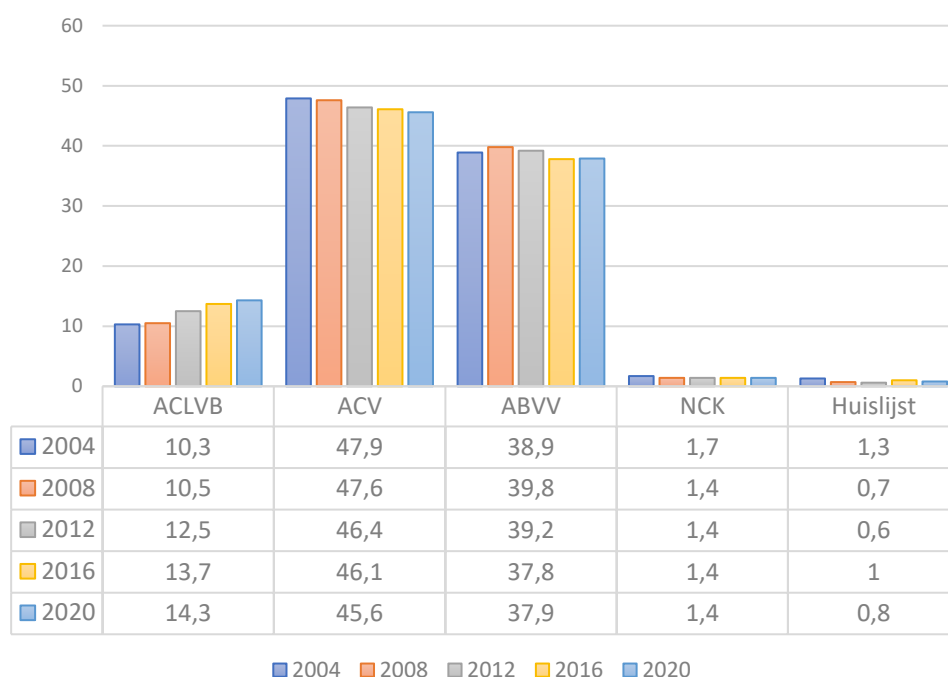
- ✚ the services they provide at various levels, from paying out unemployment benefits to social tourism and legal support at the labour courts;
- ✚ cheap membership thanks to the system of union premiums, i.e. a payment made by the employer (+/- 70% of the membership fee).

Despite the large size and internal tensions between the different centres, decent structuring enables the unions to coordinate their activities well. They have:

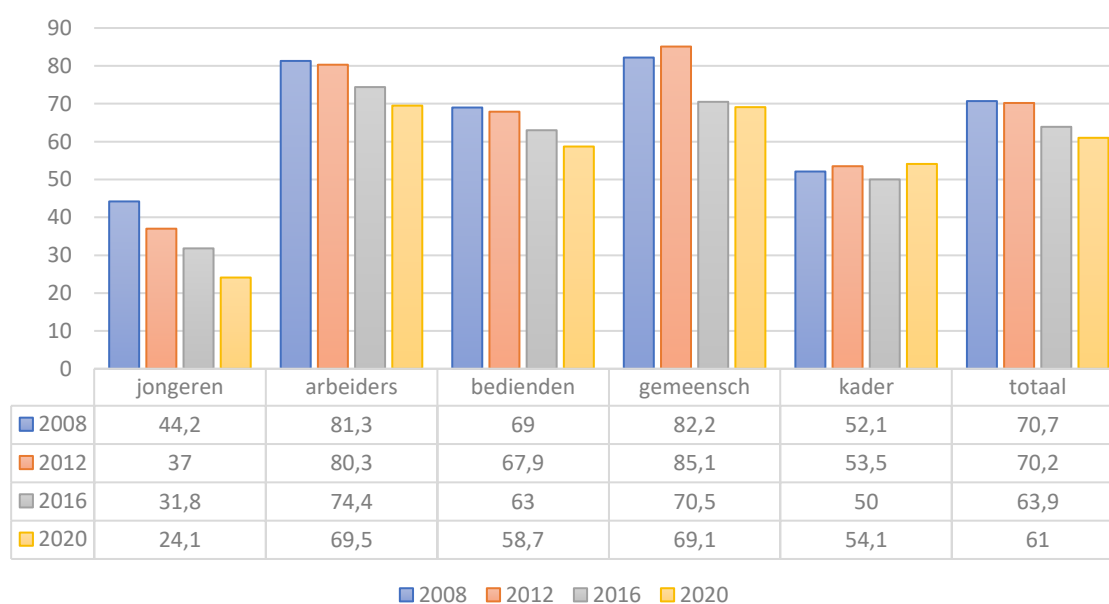
- ✚ strong internal communications;
- ✚ strong internal leadership by professional regional secretaries;
- ✚ high-quality training available to militants.

In short, their business model is solid.

Graph: results of the social elections, 2000-2016 (% votes in works council)¹



Graph: degree of participation on social elections, 2004-2016 (% votes in works council)²



¹ Source: Federal Public Service Employment, Labour and Social Dialogue

² Source: Federal Public Service Employment, Labour and Social Dialogue

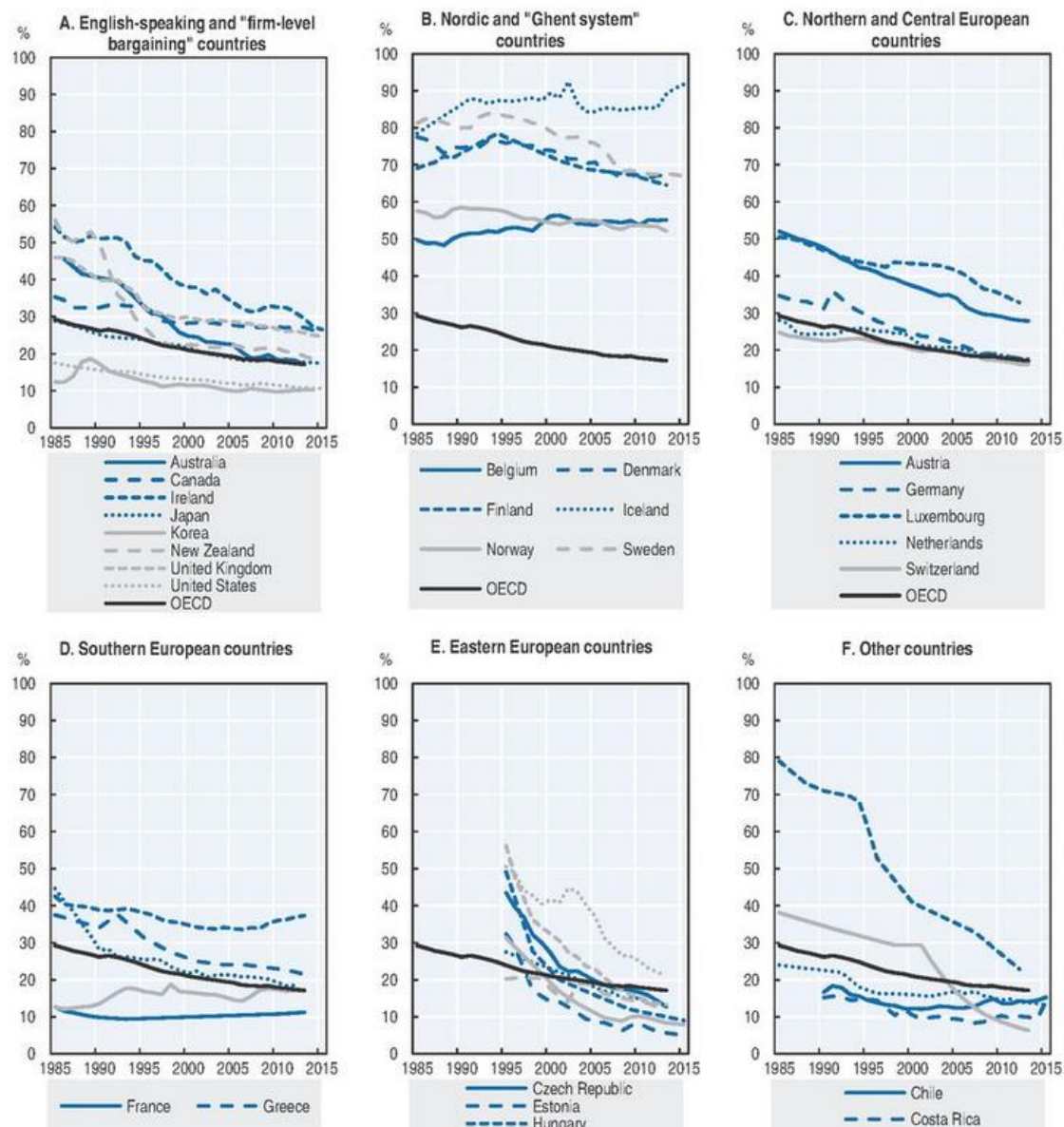
Table: Attitude of Belgian voters towards unions ³

	FLANDERS	WALLONIA
The unions are necessary to protect social rights	75%	81%
The unions defend workers' interests well	40%	40%
The unions should pursue a far more hard-line policy	27%	40%
Trade unions have too much power	43%	37%
Trust in the trade unions	22%	26%
Distrust of the trade unions	39%	37%

³ Source: Marc Swynegedouw, Koen Abts and Bart Meulemans, 'Houdingen tegenover vakbonden en stakingen in 2014'

Figure 4.2. Trends in union density

Percentage of employees,^a 1985-2015



⁴ Source: OECD Employment Outlook 2017

Employer federations

The degree of membership of an employers' association among Belgian employers is among the highest in Europe. However, the landscape of employer federations is particularly complex.

There are four inter-professional stakeholders at federal level who represent the profit sector:

- the **VBO-FEB** (Federation of Belgian Enterprises), which brings together around 50 sectoral federations - who are actually responsible for policymaking - and accounts for 30,000 employers, who collectively employ 1.5 million employees;
- Unizo**, which brings together 85,000 Flemish self-employed people and SMEs grouped into 140 sectoral associations;
- UCM** (Union des Classes Moyennes), the French-speaking counterpart of Unizo, which does not publish its membership figures;
- the **Green Front**, representing farmers, which is smaller than the medium-sized sectoral employer federations.

The organisations in the social sector, which together account for a million employees, are united at inter-professional federal level by **Unisoc**.

At the regional level, we find the following organisations in the profit sector:

- Voka** (Flanders) with 17,000 members, accounting for 70% of employment in Flanders;
- UWE** (Union Wallonne des Entreprises) with 6,000 members;
- BECI** (Brussels) with “thousands” of members;
- Unizo**;
- UCM**;
- Boerenbond** (Federation of Farmers).

The Flemish association for the social sector is called **Verso**, and its Walloon counterpart is **UNIPSO**.

At sectoral level, it is difficult to see the wood for the trees. We estimate that there are more than 200 federations exercising a mandate in one joint committee or other.

Some federations are larger than others. There are several very large federations, including **Agoria** (technology), the **Confederatie Bouw** (construction) and **Comeos** (trade). There are also large federations such as **Essenscia** (chemistry and biosciences), **Fevia** (food and drink), **Fedustria** (textiles and wood), **Assuralia** (insurance companies) and **Febelfin** (banks). And then there are smaller federations, such as **Fediex** (chalk, limestone, dolomite and related products), **FEBE** (concrete) and **Creamoda** (garment industry).

The coordinating power of the employers' organisations is very limited, and in fact it is only possible due to laws and collective bargaining agreements at national level.

Graph: employer membership levels⁵

Figure 4.4. **Employer organisation density**



Figure with the logos of various employer federations



⁵ Source: OECD Employment Outlook 2017.

Governments

Both the federal government and regional governments are key players in social dialogue.

The government is the most important player because it regularly intervenes with measures to save money in social protection.

It appears the role of the State in social dialogue has been increasing in recent years, as politics seems to be taking priority over the autonomy of social dialogue.

Previously, the federal government facilitated social dialogue through measures financed by the taxpayer. That might mean either a measure that benefited workers (such as unpaid leave with guaranteed job security), or one that benefited employers (such as a reduction in the wage burden or flexibility). Only on one occasion did the measure benefit both employees and employers (the tax and social security breaks for the so-called EcoCheques, vouchers to buy green products). In recent years the federal government has acted more as a referee than it used to in the issue of salary cost management.

Europe

Europe plays a double role

- 🔗 in monitoring the economic evolution of the member states;
- 🔗 as a multinational rule maker (e.g. for maternity leave).

The judiciary

Only once has the judiciary intervened in collective labour relations, with a disruptive ruling. In the De Bruyne ruling (1981), the Court of Cassation granted individual employees the right to strike without legal limitations.

Judges cannot forbid strikes, but they can forbid specific acts such as acts of violence by strike pickets.

The institutions of multi-employer dialogue

Dialogue between employers and unions at federal level

Summary

There are two levels of social dialogue above the level of individual companies: inter-professional dialogue and sectoral dialogue, i.e. dialogue for each branch of economic activity.

Summary table of the main institutions involved in federal dialogue

Nature of dialogue	Social	Economic	Health and welfare
Inter-professional level	Group of Ten National Labour Council Management committees of social security institutions	Central Economic Council (CEC)	Higher Council for Prevention and Protection at Work (HRPBW/CSPPT)
Sectoral level	Joint (sub)committees Social Security Funds Education Funds	Sectoral committees of the CEC	

Inter-professional dialogue

General

We should begin by pointing out that social dialogue is socio-economic dialogue by default, and that it is not restricted to social negotiations. The social partners sit on dozens of councils and committees in highly diverse policy areas. There are four important institutions to take into consideration when it comes to social dialogue.

The Group of Ten

The G10 is composed of representatives of the VBO-FEB, Unizo, UCM, Green Front, ACV, ABVV and ACLVB and is led by the chair of the VBO-FEB. These top negotiators debate and decide on the most important inter-professional issues. Negotiations on wage standards are a high point every two years, always attracting considerable media attention.



These wage standard negotiations are a typically Belgian phenomenon that requires mandatory inter-professional coordination of social (wage) negotiations at a lower level.

In the land of surrealism, it should not come as a surprise that the Group of Ten, the most influential body in practice, exists and works without any legal basis.

The agreements made by the Group of Ten do not have any real force of law, so they need to be implemented, either in the form of a collective bargaining agreement signed by the National Labour Council or by passing a law or regulations.



The Central Economic Council

The CEC is led by the social partners and works on their behalf with, in short, two tasks:

-  to chart the strength of Belgian competitiveness and employment;
-  to advise the government on extremely diverse economic issues.

National Labour Council

The NLC is the joint body where the inter-professional partners:

-  negotiate and sign inter-sectoral collective bargaining agreements. The NLC's extensive powers enable it to make enforceable arrangements for the whole of the private sector;
-  advise the government on social issues such as labour regulations and social security.

The management bodies of social security institutions

The social partners have a say at the highest level of social security administration. They are members of the management committees of social security institutions, the main ones being: the National Office for Social Security, National Employment Service, National Pensions Service and National Sickness and Invalidity Insurance Institute. In view of the power of these tripartite bodies to implement every detail of social policy, these are the instances where the decisions with a serious impact are made. In fact, this is co-management at the macroeconomic level, whereas there is no participation in management at all at company level.

The representative employer and employee organisations also play an essential role in implementing and administering social security through the unemployment benefit funds, health insurance funds, child benefit funds, holiday funds and payroll offices.





Sectoral (branch) dialogue

General

The most important characteristic of sectoral dialogue is that the social partners sign collective bargaining agreements that apply to all employers and employees in an economic sector.

Social dialogue at sectoral level has a strong presence throughout the social landscape.

It has several functions, including:

-  keeping competition on salary and employment conditions between companies with similar economic activities under control (levelling the playing field for competitors);
-  guiding the sectoral labour market;
-  ensuring that social relations are peaceful;
-  offering sector-specific services.

It is important to add here that it is misleading to speak of sectoral dialogue as if it were one thing. It is a very heterogeneous practice.

Joint committees

We are aware of 100 joint committees. Some of them are even subdivided into subcommittees. Several of these only continue to exist on paper.




The joint committees have several tasks. By far the most important is to sign sectoral agreements on salary and working conditions, employment measures and trade union representation. They also have an advisory role.


The employer federations and trade union centres are members of the joint committees, and they also give the inter-professional stakeholders their mandate.

The number of employees represented by each joint committee varies from one (joint committee for white-collar employees in coal mines) to 450,000 (supplementary joint committee for white-collar employees).

The landscape in the various sectors is highly diverse. Sometimes a joint committee only covers a few businesses, but others cover thousands. The economic activities of some joint committees are fairly homogeneous, whereas others bring together very diverse economic activities. The ratio between small and large businesses also varies greatly.

Defining the various sectors presents four problems:

-  the description of the economic activities of the sector is not always clear;
-  the description of one sector may conflict with the description of another sector;
-  the social definition of sectors often does not correspond to the NACE code;

 the definitions are sometimes outdated and do not match the development of economic reality.

One result of this is that competing companies do not always fall under the same joint committee and apply different salary and working conditions. This tempts some employers to go “sector shopping”, although the system was specifically intended to prevent this.



The activities of the many joint committees are adapted to the landscape of their respective sectors (e.g. homogeneous versus diverse activities, ratio of large to small companies). This results in large and small differences. However, we can rank the collective bargaining agreements for each sector in terms of their level of centralisation or decentralisation.

In joint committees that include many SMEs (e.g. JC 124, for the construction sector, or JC 201, for independent retailers) or ones that are very homogeneous (e.g. JC 216 for legal secretaries), the social partners sign central agreements that all members comply with.

In joint committees with a lot of large companies (e.g. JC 116 and 207, for manual workers and white-collar workers respectively in the chemical industry), the negotiators usually restrict themselves to minimum agreements or subsidiary measures. Between these two extremes, we find a range of collective bargaining agreements whose function is more to coordinate the sector, creating a more or less rigid framework for dialogue at company level.

The result of all this is that the tension between the salary and working conditions that apply to companies in the same sector may be the same or differ greatly, depending on how a given joint committee works.

We believe that two conclusions can be drawn from this.

-  Firstly, the differences between sectors are significant;
-  Secondly, within this heterogeneous landscape, there are several clusters of sectors with similar economic activities and comparable salary and employment conditions or less relevant differences.

This observation leads us to question the large number of committees and subcommittees. We believe that the transaction costs (by which we mean the running costs of the 170 joint committees) and the complexity of the system are disproportionate to the real value of a well-functioning social dialogue. With the exception of France, we do not find anything like such a large number of sectors in other countries with strong sectoral dialogue.

In our opinion, the key to rationalising the sectoral landscape lies in reducing this plethora of employers’ organisations. On the union side, this restructuring into larger clusters has already happened through the merger of the centres.








Reconciliation services

Social conflicts are solved through dialogue rather than arbitration or court intervention. The Belgian dialogue model requires the social partners to exhaust the dialogue process before the trade unions organise a strike.

The State provides personnel and infrastructure to facilitate reconciliation and mediation.

Each joint committee has a reconciliation service, composed of the chair (social mediator) and the spokespersons of the employer and employee organisations.

There is no official report on the function of the reconciliation services. Consequently, we have no information on:

-  the number of reconciliations;
-  the content of the reconciliation applications;
-  the number of reconciliations in proportion to the number of strikes;
-  compliance with the unions’ undertaking to seek reconciliation first before calling a strike;
-  the success rate of reconciliations, with a distinction between reconciliations before a strike and reconciliations during a strike;
-  the experiences of or assessment by the employers concerned and the union delegations of the companies;
-  how the social climate changes after a reconciliation.

Social funds

Many joint committees have set up one or more social funds, officially called “funds for socio-economic security”. There are approximately 170 of them.

A conservative estimate of the income of all funds together is 3.3 billion euros in employer contributions per year, i.e. over 1.5% of the total wage bill.

Expenditure items are very varied. They are highly diverse, consisting of items such as grants for socio-economic security (for economic unemployment, illness, pre-pension schemes), the payment of employers' contributions (e.g. DECAVA), the financing of supplementary pensions, the payment of union premiums and the financing of organisations. At a fundamental level, this system ensures solidarity amongst employers in financing social expenditure.

In general we can say that the transparency of the social funds' accounts, as submitted to the clerk of the Federal Public Service Employment, Labour and Social Dialogue (FPS ELSD), leaves something to be desired. Moreover, as the trustee administration, the FPS ELSD does not carry out any effective control comparable to a serious audit or an inspection by the Belgian Court of Audit. This is all in the name of autonomy of dialogue.

Sectoral training funds




The joint committees have set up numerous funds for financing, organising and facilitating the training of employees and high-risk groups. Usually they take the form of a non-profit association.

For the regions, these bodies are the anchor points for implementing sectoral policy, e.g. for sectoral agreements.

Social dialogue at company level

General

The following aspects are characteristic of social dialogue at company level in Belgium:

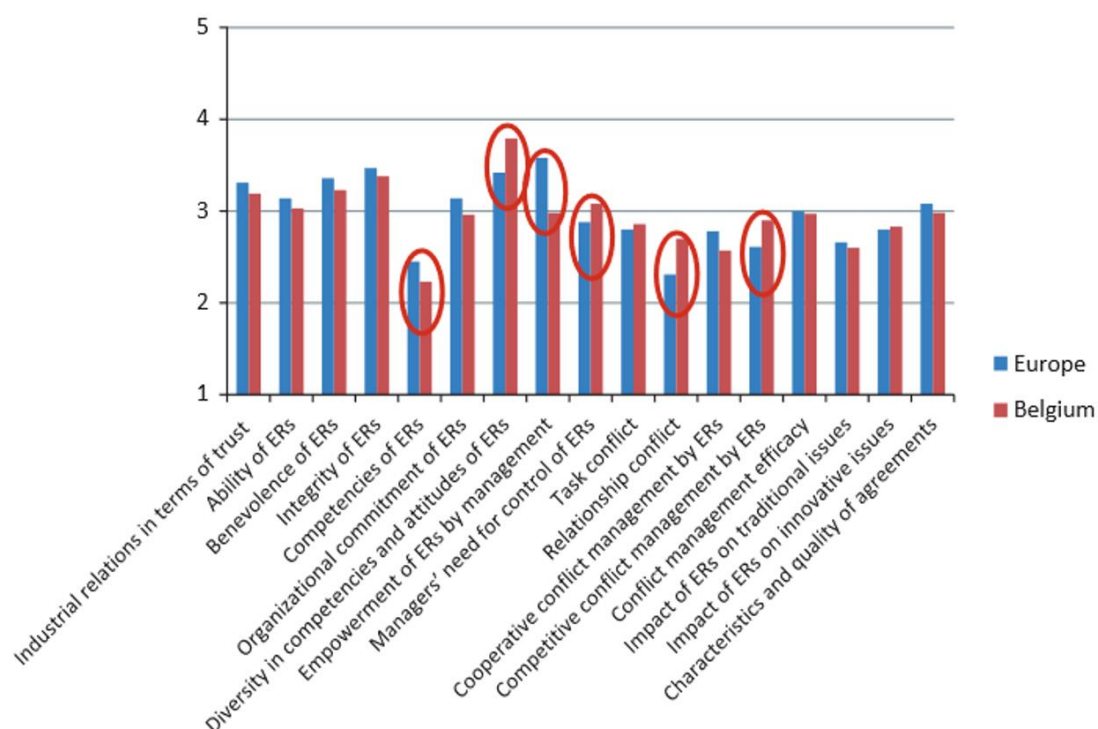
-  it is essentially the organisation of a social democracy, not an economic democracy: the economic dimension of the company is the domain of the employer, while the social dimension is the domain of social dialogue according to the principles of Fordism. There is no element of participation by management. Financial participation hardly ever occurs;
-  the combination of three dialogue bodies: the works council, the committee for prevention and protection at work and the trade union delegation;
-  the exclusive position of the unions in dialogue (virtual monopoly on election lists and the exclusive right to sign collective bargaining agreements);

- the presence of two, and often even three unions (and as a result of the distinction made between manual workers and white-collar employees, the number of fractions can be as high as six);
- the low priority of company agreements in the hierarchy of sources of law;
- the excessive protection of employee representatives.

Managers' experience with social dialogue

Various surveys have shown that Belgian managers take a fairly negative view of social dialogue at their company. In general, they complain of a lack of trust cooperative attitudes among the employee representatives. Specifically, they point out the poor skills of employee representatives, lack of involvement in the business and the application of a conflict model.

Mean scores of the main variables for Belgian and European HR managers⁶



Works council

Composition of the works council is organised on a joint basis. The employer representative is appointed by the employer, and the employee representatives are elected. The works council has a wide area of responsibility. Its influence is mainly limited to monitoring, information and consultation. The works council's consent is nevertheless required for a limited number of matters which are in fact important, such as the introduction of work schedules.

⁶ Martin Euwera a.o., Promoting Social Dialogue in European Organizations. Volume 1, Springer, 2015.

Simplified diagram of the works council's powers

	Information	Consultation	Decision-making	Monitoring
Economic issues	Economic and financial information (provided afterwards)			
Social affairs	HR management, posting, ... (beforehand)	All collective measures with an impact on the staff such as downsizing, training, pension plan, ... (beforehand)	Code (terms and conditions) of employment such as working time, vacation, ...	Social rules (not individual matters)

All in all, the works council's legally influence on company policy is fairly limited. If unions want to have more impact, they need to negotiate on the basis of power relationships. There is certainly a connection to the conflict model that dominates Belgian labour relations. For unions, after all, the union delegation is the most important body for giving the union a voice, not the works council.




Committee for Prevention and Protection at Work (CPBW/CPPT)

The Committee for Prevention and Protection at Work is composed jointly: the employer representative is appointed by the employer, and the employee representatives are elected. The focus of this dialogue body is on the health and safety of employees in the workplace.

Trade union delegation

The trade union delegation is the face of the union at the company. For militants, it is the iron fist of the union.

Its powers can be summarised as follows:

-  agreeing or disagreeing with the organisation of overtime or the recruitment of temporary staff;
-  supporting individual employees and assisting union members in individual conflict;
-  defending the collective interest in matters for which the works council or Committee for Prevention and Protection at Work are not authorised, such as negotiating (not signing) collective bargaining agreements.

The union delegates have several facilities enabling them to fulfil their trade union mission, including “the necessary time”. During this time, they are not under the employer's authority, but they do receive their pay.

Regional secretaries

Any discussion of dialogue at company level in Belgium would not be complete without mentioning the regional secretaries. These union managers have more than just the exclusive rights to sign collective bargaining agreements, meaning that they (a) are true professionals in social negotiations due to their knowledge and experience, and (b) provide effective coordination of the dialogue in their region and sector. They also have great power over the union delegation in most companies and "coach" these delegates. Their role is of course more important in sectors where there is more space for local negotiations.

Employers' opinions

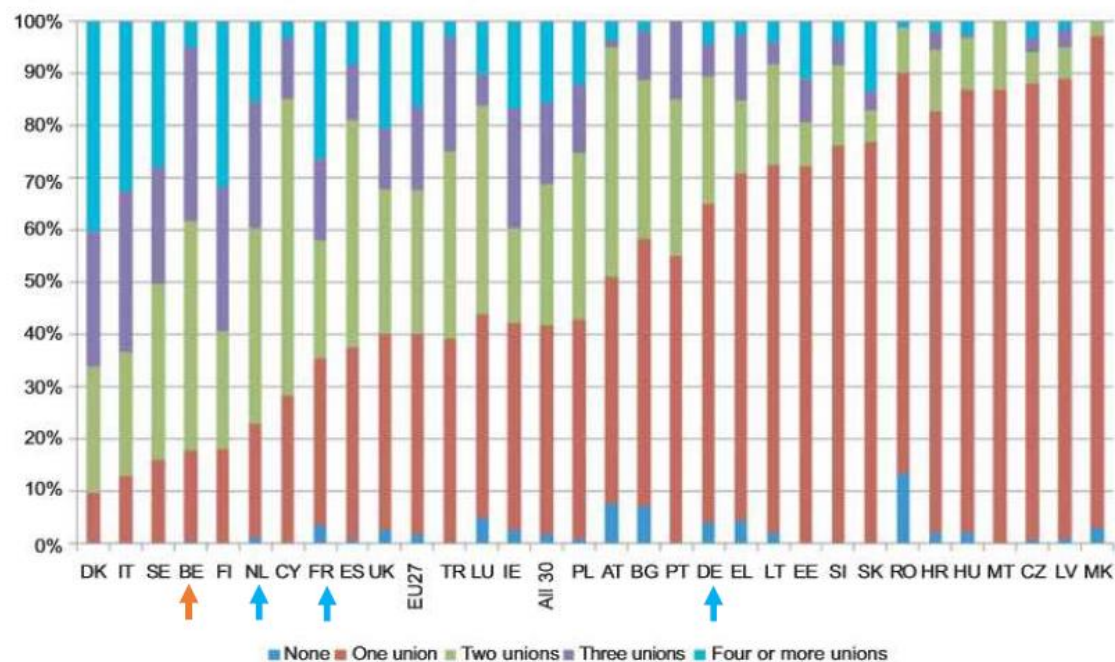
A survey by Essenscia (2015) shows that employers in the chemical industry believe the legislation is somewhat rigid, outdated, complex and obstructive (a score of 3 out of 7). They are moderately positive about the distribution of dialogue across the three bodies (a score of 4 out of 7).

Protection of employee and union representatives

Candidates in social elections are protected from dismissal. It is only if the employer can demonstrate that there is an urgent reason why the protected person must be dismissed, or if there are economic or technical reasons, that dismissal is valid. The employer must follow a special procedure to demonstrate this, firstly in court and then before the joint committee. A failure to comply with this procedure entails either the reintegration of the employee concerned or compensation for damages of up to eight years' pay. The most shocking aspect is not so much the large amount of compensation as the fact that there is no procedure provided for professional errors on the part of the protected employee.

A trade union delegate who does not fulfil the mandate of an employee representative in the works council or the Committee for Prevention and Protection at Work is also protected, but to a lesser extent.

Figure 7: Number of unions present at the workplace



Source: ECS (2009)

Pay structures

Pay in Belgium is structured by means of various mechanisms.

At inter-professional level, the National Labour Council has established a minimum wage.

The joint committees have established minimum wages at their level. Each of the joint committees has imposed an automatic indexing mechanism.

The social partners meet every two years to negotiate real increases in pay.

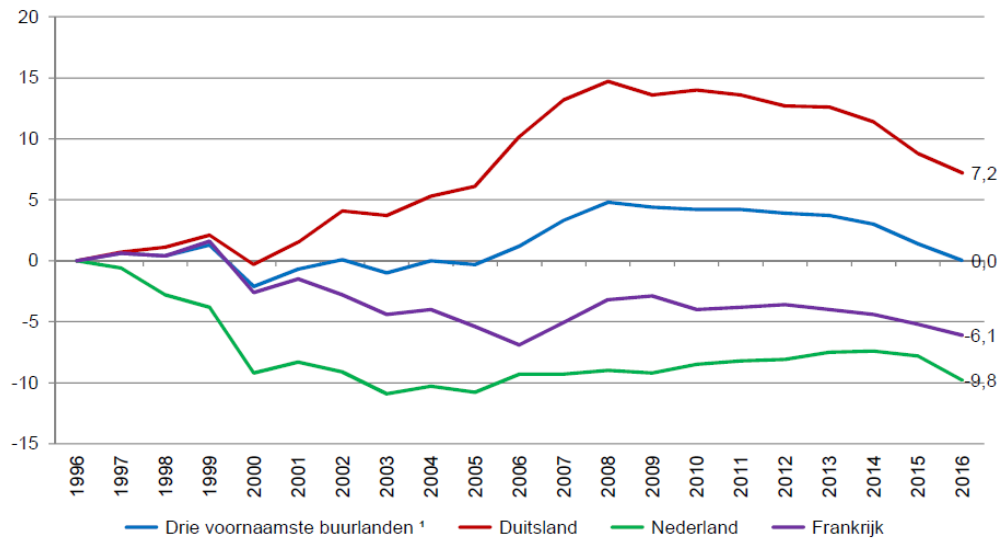
The combination of automatic indexing, pay rises agreed at sectoral level and high employer contributions are pricing Belgian wage costs out of the international market. The government is systematically required to intervene in social dialogue in order to keep wage costs competitive. Since 1996, this has been done by means of the Wage Standard Law.

The law is significant in many respects.

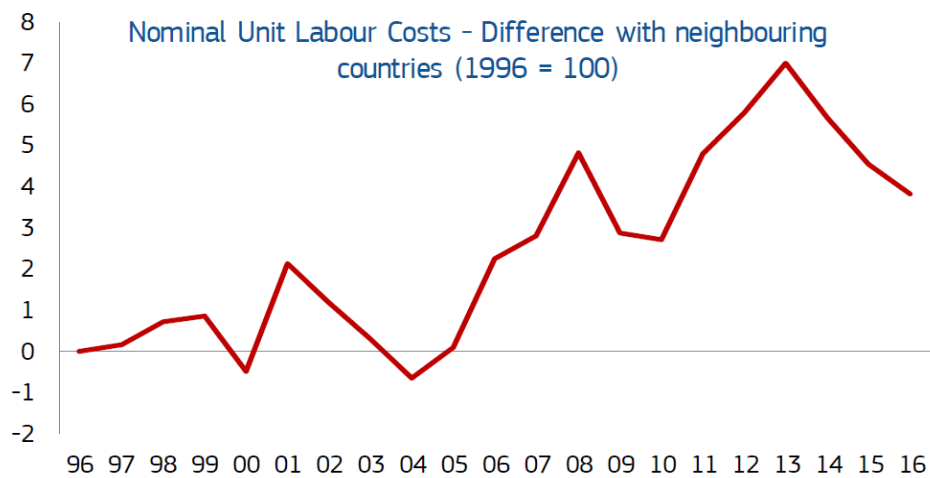
- ✚ The legislators intervene in social partners' freedom of negotiation and determine the processes and definitive decision-making in relation to the salary structure. This in itself is a problem of principle for the unions, which put a high value on the internationally recognised principle of autonomy of social dialogue.
- ✚ The aim is to involve all the consulting partners in preliminary pay negotiations. The Central Economic Council, which is the social partners' own research bureau, is responsible for making the necessary calculations. But even before the ink dries on the report on competitiveness written by the staff of the joint body, the trade unions will spark off a controversy in the press. Thus the process, with its good intention of reaching a consensus or compromise on the problem, does not work.
- ✚ The way in which the negotiation margin is calculated defies all imagination. It is based on two forecasts: (a) the evolution of wage costs in neighbouring countries and (b) inflation forecasts in Belgium; (a) minus (b) is equal to the negotiation margin for the next two years. The cake still has to be baked, with only half the recipe available, and no one knows if the cake will rise, and yet it has already been decided how big each slice will be. This approach is doomed to fail.
- ✚ The automatic indexing and application of the pay scales are guaranteed, even if the cost of this exceeds the wage standard.
- ✚ The negotiation margin is calculated for the entire private sector on the basis of averages. This leads to a single standard for all sectors, and thus undermines the exporting sectors by default.
- ✚ Competitiveness varies greatly from sector to sector. In practice, the central wage standard has the effect of making wages develop along more or less the same lines in all sectors. Thus the wage standard freezes the differences.
- ✚ The system works more or less if there is sufficient room for negotiation. If the standard is too low, the government has to intervene anyway. This can be done gently by lowering salary taxes, or more harshly by imposing a pay freeze or index freeze by law.

The wage standard will be a necessary evil until automatic indexing is abolished.

Graph: percentage of difference in the cumulative development of hourly wage costs in the private sector since 1996 (Source: HRW based on data from the CEC)



Graph: evolution of wage costs per product unit (Source: EC)



Legal institutions

Below is a brief overview of the most important features of Belgian collective labour law.

The strict hierarchy of sources of law

Belgian employment law is dominated by a strict hierarchy of sources of law, where inter-professional arrangements come first and sectoral agreements come second. Furthermore, higher standards that are legally binding, not only derived from laws and decrees but also from the collective bargaining agreements signed in the NLC or in a joint committee, are rarely subsidiary in nature.

This has three principal consequences:

- ✚ the very high degree of coverage of the collective bargaining agreements, i.e. almost all companies and employees are subject to them;
- ✚ it is impossible, or at any rate extremely difficult, to deviate at company level from the higher sources of law;
- ✚ in general, leeway for company dialogue is limited to supplementary salary and employment conditions, with no opportunity to deviate from the sectoral agreements.

Too little leeway for negotiation at company level?

Employers who want to negotiate at company level find that there is insufficient leeway for these negotiations. There are two reasons for this:

- ✚ any room for salary conditions is filled by automatic indexing and, in many sectors, by compulsory sector agreements;
- ✚ the possibilities for adapting employment conditions (e.g. flexibility) are blocked by legislation (e.g. the definition of trusted personnel) or by compulsory sectoral agreements.

This makes it difficult to adapt salary and employment conditions to the needs of the company and in certain cases even to the wishes of the employees. Moreover, these limitations obstruct the application of creative solutions to company negotiations that run into trouble; there is no space for thinking “outside the box”.

Extension of collective agreements

The extension or generally binding declaration of social agreements is a legal technique for giving agreements between civil parties a regulatory character. This is how collective bargaining agreements are made applicable to all employers and employees in a specific sector.

In Belgium the generally binding declaration takes place automatically, as it were, by means of a simple request from the joint committees. There is a legal assessment to ensure that the collective bargaining agreements do not violate laws or decrees, at least, but the Minister of Employment does not intervene on the grounds of practical expediency in any way. It is as though the Minister had transferred his political power to the various sectors, with the result that the issues governed by the collective bargaining agreements lie outside the Minister’s policy domain. This means, among other things, that the Minister has no control of salary structures where there is a problem in terms of gender equality or automatic age-related salary increases.

Mechanisms for extending collective agreements, by country⁷

Country	Frequency of use
AUSTRIA	Seldom used (because of the extensive coverage of collective bargaining)
BELGIUM	Very frequently used
DANMARK	No extension mechanism
FRANCE	Very frequently used
GERMANY	Less frequently used, but there is a wider voluntary acceptance of sectoral collective bargaining agreements as the sectoral wage-determination model.
ITALY	No extension mechanism
NETHERLANDS	Frequently used
SWEDEN	No extension mechanism
UNITED KINGDOM	No extension mechanism

Distinction between manual workers, white-collar employees and managers

Next, we should also mention the legal difference between manual workers and white-collar employees here. This is not merely a matter of individual labour rights, because it also influences the entire social dialogue process.

This is evident:

- ✚ in the joint committees, which tend to have exclusive authority over either manual workers or white-collar employees;
- ✚ in the way the dialogue bodies are organised at company level.

In addition, we have the conventional distinction between white-collar workers and management. In many sectors, management is excluded from the scope of application of the collective bargaining agreement with respect to the union delegation. Similarly, the wage arrangements and automatic indexing may not apply to managers. This distinction was recently classified as discriminatory by the Labour Court of Mons.

The liberal right to strike

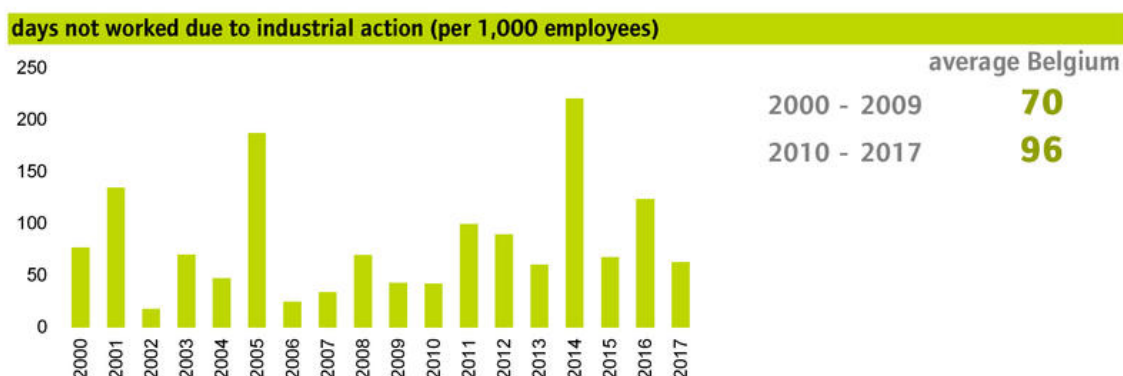
We will also point out the liberal nature of the right to strike. Freedom to strike in Belgium is an individual right, not limited by any conditions or methods in our legal system. This principle undermines the

⁷ Eurofound, Extension of collective bargaining agreements in the EU. *Background paper*, 2011.

arrangements made in the collective bargaining agreements, by which trade unions have undertaken to follow a procedure before each strike. Regrettably, strikers are free to take action that is normally curbed by criminal law, such as obstructing free movement of traffic on public roads.

There are a lot of strikes in Belgium. The large number of strikes is not the consequence of company strikes, but rather of national strikes against government measures (irrespective of the political majority in charge at that time).

Social conflicts in Belgium are solved by means of negotiations. Arbitration is not an option. However, there is a reconciliation service available to help the parties reach a compromise.



Obstacles to financial participation

The matter of encouraging employees' financial participation in their employer's capital arose at the start of this century (see the PEPPER report). In response to this, the legislators created a fiscal and parafiscal framework (Law of 22 May 2001). This framework is a rigid one, partly because of employment guarantees and the necessity, especially at companies with a trade union delegation, of signing a collective bargaining agreement. Moreover, the response of the trade unions has been downright negative. Consequently, Belgium is still a barren desert when it comes to financial participation.

No obligation to participate at board level

In contrast to other countries, there is no mandatory inclusion of employees or unions in company bodies in Belgium. Board-level participation is found only in some public companies.

Some international comparisons of industrial relations and workers participation

European comparison of the most important features of the dialogue bodies⁸

Cluster	Germanic	Latin*	Anglo-Saxon	Scandinavian
Most important representative body (in the workplace)	Works council	Social service	Social service	Social service
Secondary representative body (in the workplace)	--	Works council	Mixed advisory committee	Cooperation committee
Right to information	+++	++	+	+++
Right to consultation	+++	++	+	+++
Right to participate in decision-making	+++	-	-	++
Most important level of negotiations	Sector	Sector	Company	Sector

* including Belgium

There is certainly interaction between the militant unionism typical of our country and the legal characteristics of employee participation. Dialogue tries to find a balance between the employer's economic autonomy and the control function and voice of dissent exercised by trade unions. Thus the conflict model originates in the institutions. In turn, the institutions are the result of the ideology and balance of power after the Second World War. The institutions of dialogue have changed little in the meantime.

An important element is also the number of trade union fractions with which an employer must enter into dialogue.

Every centre has its own structure, styles and priorities. The distinction between manual workers and white-collar employees, combined with the fact that there are three trade unions, means that the number of fractions can be as many as five (one ABVV centre for manual workers, one ABVV centre for white-collar employees, one ACV centre for manual workers, one ACV centre for white-collar employees and one collective body for ACLVB). Matters become even more complex if a company has dialogue in both French and Dutch, because the ACV centre for white-collar employees is effectively split into the LBC-NVK and CNE. The situation becomes hopeless if a business is covered by several joint committees, because this can lead to a trade union delegation from more than one ABVV and ACV centre.

⁸ Source: Annette van den Berg, Yolanda Grift, Arjen van Witteloostuijn, Christophe Boone and Olivier Van der Brempt, 'Werknemersvertegenwoordiging in Europa: verschillen, oorzaken en gevolgen.' Antwerp, Effective Governance in Private Organisations, 2012.

Collective bargaining coverage: sectoral and decentralised agreements, 2015-2016 (% of employees)⁹

	Sectoral coverage	Decentralised coverage
Belgium	≥90%	(No data)
France	≥90%	61.5%*
Germany	48%	30%**– 17%***
Italy	90%	34%
Spain	65–70%	5%

Note: * Percentage share of the workforce in enterprises with at least 10 employees. ** Workers covered by collective agreements and a works council. *** This corresponds to 35 per cent of all workers covered by collective agreements.
Source: DECOBA.

⁹ Salvo Leonardi and Roberto Pedersini , Multi-employer bargaining under pressure: decentralisation trends in five European countries. Brussels, ETUI, 2018.



General overview

Generally speaking, we can draw the following conclusions:

- ✚ Nothing is simple in Belgian social dialogue.
- ✚ Social dialogue is distributed over many different levels, which we can refer to as the Belgian “lasagne model”.
- ✚ At company level, social dialogue is structured as a dualistic system, which means that two types of institution (employee representatives and trade union delegates) come together in response to two political tendencies (Christian Democracy and Social Democracy).
- ✚ Sectoral dialogue is very extensive. Salary structures are highly centralized.
- ✚ Inter-professional dialogue consists of a subtle interaction between the autonomy of social dialogue and state intervention.
- ✚ There are many stakeholders, both on the employers’ side and on the union side.
- ✚ The system is coordinated by federal central negotiations, but the inter-professional stakeholders are directed by the sectoral stakeholders.
- ✚ Autonomy at company level is limited. Dialogue at company level is always an addition to inter-professional and sectoral arrangements, but seldom replaces it.

More

You can find more information on:

-  <https://www.oecd.org/employment/collective-bargaining-database-Belgium.pdf>
-  <https://www.worker-participation.eu/National-Industrial-Relations>

This publication is offered to you by the Social Dialogue Network.

The Social Dialogue Network:

- ✚ helps employers who want to invest in a positive social climate;
- ✚ seeks new forms of dialogue with a view to cooperating more effectively with the social partners;
- ✚ tackles the complex system of labour relations to increase professionalism in social dialogue;
- ✚ applies the five-piece social jigsaw model to increase trust in the organisation:
 - thorough approach to social complaints;
 - mastery of social dialogue;
 - in-depth social communication within the organisation;
 - decisive leadership in the workplace;
 - social strategy, the final element that incorporates vision, values, goals and resources.



The concrete services that the Social Dialogue Network provides consist of:

- ✚ advice to determine social strategy (workshop with the management team, drafting the social charter);
- ✚ custom in-house training: “working together to create a positive social climate”;
- ✚ social climate audit;
- ✚ mediation between social stakeholders;
- ✚ social crisis management;
- ✚ coaching for major changes (restructuring, mergers);
- ✚ coaching for social negotiations.

For more information:

✚ www.social-dialogue.net

Contact

- ✚ Sofie Claes (mobile: +32 479 40 17 26; e-mail s.claes@social-dialogue.net)
- ✚ Manou Doutrepont (mobile: +32 475 62 26 72 ; e-mail : m.dooutrepont@social-dialogue.net)



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