http://www.meta.fgov.be

Labour Inspection

Marc Lombet, Labour Inspector – Head of Directorate Labour Inspection – Posted Workers Liège

Part 1: General introduction

Part 2: Collective agreements

Part 1: General introduction

Belgium is known for its system of social dialogue in the private sector.

Social dialogue is a general term that encompasses various negotiating procedures and practices specific to the field of collective labour relations.

It is essential because it is used to govern relations between employers and workers.

It is an institutional system of negotiation present at different levels and which results in a written agreement. At each level, there are competent bodies, approved standards and a specific scope.

But how does the social dialogue system work?

One main driving force: the social partners!

The social partners include the workers' representatives (the trade unions) and the employers' representatives (the employers' federations). They are tasked with defending either the workers' interests or the employers' interests, depending on their mandate.



The industrial relations system in Belgium consists essentially of a negotiation between the employers and the worker.

The social partners are present at all levels of dialogue: interbranch, sector and company.

Collective bargaining agreements and joint committees

Act of 5 December 1968

Scope of the law

The law applies to all companies (natural persons or legal persons).

- It does not apply to persons employed by:
- -the State, the Communities, the Regions, the Community Commissions, the provinces and the municipalities
- -state agencies (ONSS, CPAS, etc.)
- -public interest bodies (inter-municipal undertakings, etc.)
- -vocational training centres
- -non-state schools (whose staff is subsidised by the State)

-local employment agencies (LEA, for workers hired on a LEA contract)

The Collective Bargaining Agreement (CBA)

Definition:

<u>an agreement</u> concluded

between one or more workers' organisations and one or more employers' organisations or one or more employers

 and which <u>establishes the relationships</u> between employers and workers

The scope of the CBAs

- concluded within the CNT (Belgium's National Labour Council): covers all of the country's branches of activity
- concluded within a joint committee (JC): covers all of the people and companies under the JC's responsibility
- concluded within a company: concerns all of the workers and the employer

The National Labour Council (NLC)

http://www.cnt-nar.be

- public corporation (Act of 29 May 1952)
- composed of members drawn from the workers' and the employers' representative organisations (24 current members)
- concludes cross-sector collective bargaining agreements

Joint committees (JC) and joint subcommittees

Establishment of a joint committee:

-by Royal Decree (RD) -after notification in the Belgian Official Gazette

Missions:

- •draw up collective bargaining agreements
- prevent and settle disputes
- •issue opinions

Part 2: Collective bargaining agreements

Legal definition (Article 5)

A collective bargaining agreement is:

-<u>an agreement</u> concluded between one or more workers' organisations and one or more employers' organisations or one or more employers;

-which establishes the <u>individual and collective relationships</u> between employers and workers within <u>companies or a business</u> <u>sector</u>, and which governs the <u>rights and obligations of the</u> <u>contracting parties</u>.

Content of a collective bargaining agreement (CBA)

The normative provisions establish the individual and collective labour relations between employer(s) and workers. They are mandatory for third parties that are not signatory to the CBA (individual normative provisions only, barring a Royal Decree).

• The **individual normative** provisions include the "working conditions".

These provisions are included in the individual employment contracts (the initial contracts are amended and completed by the CBAs).

•The collective normative provisions

are not included in the employment contracts, but govern the collective relations.

For example: safety standards, collective redundancy, etc.

They are not binding on third parties when the CBA has not been made mandatory by Royal Decree.

The effects of a non-binding CBA

The people and organisations obligatorily bound by the agreement:

- the organisations that have concluded or subscribed to the CBA
- the employers (that have concluded or subscribed to the CBA)
- the employers that are members (or affiliated with) an organisation that has concluded or subscribed to the CBA
- all of the employees of a bound employer They are all bound by the individual and collective normative provisions. NB: the so-called mandatory clauses apply only to the signatories (and not to their members).

The people subject to subsidiary applicability of the CBA:

- Employers that are not members of a signatory organisation (and which have not concluded or subscribed), along with all of the workers they employ, are bound by the CBA under the following conditions:
- the CBA was concluded within a joint body
- only the individual normative clauses are applicable
- an individual employment contract may contain a written clause that is contrary to the agreement.

Effects of a CBA that has been made mandatory (by Royal Decree)

The binding nature extends the obligation to people other than those already bound and makes it possible to impose penal sanctions.

Not all CBAs can be made mandatory: only CBAs concluded within a joint body and only for the (individual and collective) normative provisions.

Procedure

The request must come from the joint body or an representative organisation that is part of the joint body.

The Minister may follow up on the request by proposing that the King make the CBA mandatory.

The CBA is published in the Moniteur belge as an appendix to the Royal Decree.

Effects of extending the binding nature

The Royal Decree makes the CBA <u>mandatory</u> for <u>all</u> employers and workers that come under the joint body.

- For those already bound, the only change is the penal nature of the sanctions.
- For those who were bound only in a subsidiary manner, the consequences are that:

- the individual normative provisions are mandatory (and no longer subsidiary)

- the collective normative provisions (which were not applicable until then) become mandatory.

23

The conventional labour law derived from the CBAs

CNT agreements

=>

127 CBAs concluded within the CNT

- Status of the trade union delegation
- The employer's financial contribution to the price of transport for workers
- Guaranteed average monthly minimum wage
- Equal pay for men and women
- Guaranteed monthly salary granted to workers in the event of incapacity for work

25

- Continued workers' pay in the event of brief leave of absence
- The switch from summer time to winter time, then back again
- Workers' rights in the event of a change of employer as a result of an agreed company transfer
- Labour law on short-time work
- In relation to temporary lay-off

- Guaranteed minimum monthly pay for workers under the age of 21
- Outplacement
- Concerning the recruitment and selection of workers
- Concerning the management and prevention of work-related stress
- Concerning time credit for a break in the worker's career

- Regarding the protection of workers' privacy from video surveillance in the workplace
- Concerning payment for days' absence on the death of great-grandparents/great-grandchildren
- Concerning working from home
- Concerning theft prevention and exit screening of workers

- Establishing a right to breastfeeding breaks
- Protecting workers' privacy from controls of networked electronic communication data
- Right to outplacement for workers aged 45 and over
- Continued workers' pay in the event of brief leave of absence
- Concerning one-off benefits linked to results

- Concerning workers' pay problems during the switch from summer time to winter time, and vice versa
- Workers' rights in the event of a change of employer as a result of an agreed company transfer
- Implementation of an alcohol and drugprevention policy
- Providing a valid reason for redundancy

Collective labour law derived from the CBAs – Sector-specific agreements

Three types of joint committees:

- For manual workers: 1.... (around 75 joint committees and joint subcommittees)
- For employees: 2.... (around 25 joint committees and joint subcommittees)
- Mixed: 3.... (around 65 joint committees and joint subcommittees)

=> Around 165 joint committees and joint subcommittees

Collective labour law derived from the CBAs – Sector-specific agreements

Since 1 January 1999, they have concluded:

18,185 collective agreements

of which

7,225 were still in force on 1 January 2018

of which

89% were made compulsory by **Royal Decree** (infringements are therefore punishable by law)

32

Collective labour law derived from the CBAs – Sector-specific agreements

- Working conditions and compensation:
 - Workers' job classification
 - Pay scales
 - End-of-year bonus
 - Bonuses for occasional work
 - Mobility bonus
 - Notice periods
 - Duration of work
 - Travelling expenses

Collective labour law derived from the CBAs – Sector-specific agreements

- Working conditions and compensation:
 - Extra days' leave
 - Collective holidays
 - Work clothes
 - eco-cheque, meal vouchers, etc.
 - ...
- Contingency fund and guarantee fund:
 - miscellaneous benefits (sickness, early retirement, unemployment, etc.)

Collective labour law derived from the CBAs – Sector-specific agreements

- Labour relations: union delegation

An example of how the collective bargaining agreements can be applied in the construction sector to workers posted by a foreign company

General principles:

Belgian Act of 5 March 2002 on the posting of workers, transposing Directive 96/71/EC concerning the posting of workers in the framework of the provision of services

General scheme

Applicable working conditions: principle

Employers who post their workers to Belgium are required to comply with Belgian working conditions (including the remuneration and employment conditions) for the work performed in Belgium. These conditions are set out in statutory and regulatory provisions (Royal Decrees), which are liable to a penal sanction, and the provisions made compulsory by Royal Decree (i.e. the collective bargaining agreements subject to penal sanctions), in accordance with the Act of 5 December 1968 on collective labour agreements and joint committees. Failure to comply with these public provisions is punishable by law. These are essential provisions that safeguard workers' rights. More specifically, these provisions concern:

- the duration of work
- pay
- public holidays
- the minimum duration of paid annual leave
- workers' well-being
- protective measures for pregnant women
- non-discrimination
- temporary employment
- the supply of staff

 workers' accommodation conditions when the employer offers accommodation to workers who are a long way from their usual place of work.

To ascertain which industry-specific collective bargaining agreements rendered compulsory by Royal Decree are applicable, refer to the company's main business, as carried out during the posting to Belgium.

The company's main business is used to determine the joint committee to which the company pertains; this joint committee is itself decisive for determining the applicable collective sectoral pay and conditions agreements.

With regard to the applicable collective sectoral pay and conditions agreements and the conditions determined by these collective bargaining agreements: information about postings undertaken in 10 sectors (industry branches) is available in the PDF documents on our spf emploi website.

One of these fact sheets concerns the construction sector: See the link below.

https://emploi.belgique.be/sites/default/files/content/documents/International/Fiches%20Limosa/Limosafiche%20PC%20124%20FR.pdf

The collective bargaining agreements mentioned in the document can be consulted on the SPF ETCS website:

<u>https://emploi.belgique.be/fr/themes/commissionsparitaires-et-conventions-collectives-de-travailcct/conventions-collectives-3</u>

	able des matières	
ົ 1	Champ de compétence	
2		
	2.1 Barème salarial (brut)	. 5
	2.1.1 Majeurs	
	2.1.2 Jeunes soumis à l'obligation scolaire partielle	. 6
	2.1.3 Etudiants	
	2.1.4 Classification des fonctions et ancienneté	. 6
	2.2 Primes/Indemnités	10
	Timbres fidélité	
	Prime d'ancienneté	
	Travail en équipes successives	
	Prestations en dehors des limites journalières normales	14
	Heures supplémentaires et travail du samedi	15
	Intempéries	21
	Suppléments pour travaux spéciaux	22
	Indemnités spécifiques dans les entreprises qui produisent et/ou fournissent du béton prêt à	
	l'emploi	26
	Supplément de salaire pour des travaux dans l'enceinte des entreprises pétrochimiques en	
	activité	
3	renovalsentent acs acpenses ac rojuge, ac Logenent et ac nournare	
	Nourriture et logement	28
	Frais de déplacement	
4	Durée du travail	
5	Fonds de sécurité d'existence	34

~

Collective bargaining agreement lodged and registered at the *Direction du greffe et de la force obligatoire des CC*T

PARITAIR COMITE VOOR HET BOUWBEDRIJF

CAO van 9 juli 2019

Wijziging van de cao van 12 juni 2014 betreffende de sectorale loonschalen

Hoofdstuk 1 – Toepassingsgebied

Artikel 1. Deze cao is van toepassing op de werkgevers van de ondernemingen die ressorteren onder het Paritair Comité voor het Bouwbedrijf en op de arbeiders die zij tewerkstellen.

Onder "arbeiders" verstaat men, de arbeiders en arbeidsters tewerkgesteld krachtens een arbeidsovereenkomst voor werklieden, bedoeld in artikel 2 van de wet van 3 juli 1978 betreffende de arbeidsovereenkomsten.

Artikel 2. Deze cao wordt gesloten in het kader en met naleving van het KB van 19 april 2019 dat de maximale marge voor de loonkostontwikkeling bepaalt voor de periode 2019 en 2020.

Zij heeft tot doel de cao van 12 juni 2014 betreffende de sectorale loonschalen (registratienummer: 123027/CO/124) te wijzigen.

Hoofdstuk 2 – Wijzigende bepalingen

Artikel 3. Artikel 4 van de voormelde cao van 12 juni 2014 betreffende de sectorale loonschalen wordt aangevuld met de volgende paragraaf:

*§ 4. De minimumlonen en de effectieve lonen van de arbeiders tewerkgesteld in de ondernemingen bedoeld in artikel 1, worden per 1 juli 2019 als volgt verhoogd:

- Categorie I A: + € 0,166 - Catégorie I A: - Categorie II: + € 0,168 - Catégorie II: - Categorie II A: + € 0,177 - Catégorie II A:	
- Categorie II A: + € 0,177 - Catégorie II A:	
 Categorie III: + € 0,179 - Catégorie III: 	
 Categorie IV: + € 0,190 - Catégorie IV: 	

Neerlegging-Dépöt: 12/07/2019 Regist.-Enregistr.: 30/07/2019 N°: 153140/CO/124

COMMISSION PARITAIRE DE LA CONSTRUCTION

CCT du 9 juillet 2019

Modification de la CCT du 12 juin 2014 relative aux barèmes des salaires sectoriels

Chapitre 1^{er} – Champ d'application

Article 1°^r. La présente convention collective de travail s'applique aux employeurs des entreprises ressortissant à la Commission paritaire de la Construction et aux ouvriers qu'ils occupent.

On entend par "ouvriers", les ouvriers et les ouvrières occupés en vertu d'un contrat de travail d'ouvrier, visé à l'article 2 de la loi du 3 juillet 1978 relative aux contrats de travail.

Article 2. La présente CCT est conclue dans le cadre et dans le respect de l'AR du 19 avril 2019, qui fixe la marge maximale pour l'évolution des coûts salariaux pour la période 2019 et 2020.

Elle a pour but de modifier la CCT du 12 juin 2014 relative aux barèmes des salaires sectoriels (numéro d'enregistrement: 123027/CO/124).

Chapitre 2 – Dispositions modificatives

Article 3. L'article 4 de la CCT précitée du 12 juin 2014 relative aux barèmes des salaires sectoriels est complété par le paragraphe suivant:

"§ 4. Les salaires mínima et les salaires effectifs des ouvriers occupés dans les entreprises visées à l'article 1^{er} sont augmentés au 1^{er} juillet 2019 comme suit:

3	-	Catégorie I:	+ € 0,158
3	-	Catégorie I A:	+ € 0,166
3	-	Catégorie II:	+ € 0,168
7	-	Catégorie II A:	+ € 0,177
9	-	Catégorie III:	+ € 0,179
)	-	Catégorie IV:	+ € 0,190

Ingevolge de verhoging bepaald in het vorige lid, zijn de minimumlonen van de arbeiders tewerkgesteld in de ondernemingen bedoeld in artikel 1, per 1 juli 2019 als volgt vastgesteld:

 Categorie I: 	€ 14,573
 Categorie I A: 	€ 15,296
 Categorie II: 	€ 15,534
 Categorie II A: 	€ 16,309
 Categorie III: 	€ 16,521
 Categorie IV: 	€ 17,536"

Conformément à l'augmentation fixée à l'alinéa précédent, les salaires minima des ouvriers occupés dans les entreprises visées à l'article 1^{er} sont fixés au 1^{er} juillet 2019 comme suit:

-	Catégorie I:	€ 14,573
	Catégorie I A:	€ 15,296
	Catégorie II:	€ 15,534
-	Catégorie II A:	€ 16,309
-	Catégorie III:	€ 16,521
-	Catégorie IV:	€ 17,536"

Hoofdstuk 3 – Geldigheidsduur

Artikel 4. Deze cao treedt in werking op 1 juli 2019.

Zij heeft dezelfde geldigheidsduur en opzegmodaliteiten als de voormelde cao van 12 juni 2014 betreffende de sectorale loonschalen die zij wijzigt.

Chapitre 3 - Durée de validité

Article 4. La présente CCT entre en vigueur le 1^{er} juillet 2019.

Sa durée de validité et ses modalités de dénonciation sont identiques à celles de la CCT précitée du 12 juin 2014 relative aux barèmes des salaires sectoriels qu'elle modifie.



SERVICE PUBLIC FEDERAL EMPLOI, IRAVAIL ET CONCERTATION SOCIALE

[C - 2019/14943]

3 DECEMBRE 2019. — Arrêté royal rendant obligatoire la convention collective de travail du 9 juillet 2019, conclue au sein de la Commission paritaire de la construction, relative à la modification de la convention collective de travail du 12 juin 2014 relative aux d'er

PHILIPPE, Roi des Belges,

barèmes des salaires sectoriels (1)

A tous, présents et à venir, Salut.

Vu la loi du 5 décembre 1968 sur les conventions collectives de travail et les commissions paritaires, notamment l'article 28;

Vu la demande de la Commission paritaire de la construction; Sur la proposition de la Ministre de l'Emploi,

Nous avons arrêté et arrêtons :

Article 1^{ee}. Est rendue obligatoire la convention collective de travail du 9 juillet 2019, reprise en annexe, conclue au sein de la Commission paritaire de la construction, relative à la modification de la convention collective de travail du 12 juin 2014 relative aux barèmes des salaires sectoriels.

Art. 2. Le ministre qui a l'Emploi dans ses attributions est chargé de l'exécution du présent arrêté.

Donné à Bruxelles, le 3 décembre 2019.

PHILIPPE

Par le Roi :

La Ministre de l'Emploi, N. MUYLLE

Note

 Référence au Montteur belge : Loi du 5 décembre 1968, Montteur belge du 15 janvier 1969.

Annexe

Commission paritaire de la construction

Convention collective de travail du 9 juillet 2019

Modification de la convention collective de travail du 12 juin 2014 relative aux barèmes des salaires sectoriels (Convention enregistrée le 30 juillet 2019 sous le numéro 153140/CO/124)

CHAPITRE I^{er}. - Champ d'application

Article 1^{er}. La présente convention collective de travail s'applique aux employeurs des entreprises ressortissant à la Commission paritaire de la construction et aux ouvriers qu'ils occupent.

On entend par "ouvriers" : les ouvriers et les ouvrières occupés en vertu d'un contrat de travail d'ouvrier, visé à l'article 2 de la loi du 3 juillet 1978 relative aux contrats de travail.

Art. 2. La présente convention collective de travail est conclue dans le cadre et dans le respect de l'arrêté royal du 19 avril 2019, qui fixe la marge maximale pour l'évolution des coûts salariaux pour la période 2019 et 2020.

115244

MONITEUR BELGE — 19.12

Elle a pour but de modifier la convention collective de travail du 12 juin 2014 relative aux barèmes des salaires sectoriels (numéro d'enregistrement : 123027/CO/124).

CHAPITRE II. - Dispositions modificatives

Art. 3. L'article 4 de la convention collective de travail précitée du 12 juin 2014 relative aux barèmes des salaires sectoriels est complété par le paragraphe suivant :

"§ 4. Les salaires minima et les salaires effectifs des ouvriers occupés dans les entreprises visées à l'article 1^{er} sont augmentés au 1^{er} juillet 2019 comme suit :

Categorie I/Catégorie I

Categorie IA/Catégorie IA

Categorie II/Catégorie II

Categorie IIA/Catégorie IIA

Categorie III/Catégorie III

Categorie IV/Catégorie IV

Conformément à l'augmentation fixée à l'alinéa précédent, les salaires minima des ouvriers occupés dans les entreprises visées à l'article li^{es} sont fixés au l'^{er} juillet 2019 comme suit :

Categorie I/Catégorie I

Categorie IA/Catégorie IA

Categorie II/Catégorie II

Categorie IIA/Catégorie IIA

Categorie III/Catégorie III

Categorie IV/Catégorie IV

CHAPITRE III. — Durée de validité

Art. 4. La présente convention collective de travail entre en vigueur le 1^{er} juillet 2019.

Sa durée de validité et ses modalités de dénonciation sont identiques à celles de la convention collective de travail précitée du 12 juin 2014 relative aux barèmes des salaires sectoriels qu'elle modifie.

Vu pour être annexé à l'arrêté royal du 3 décembre 2019.

La Ministre de l'Emploi, N. MUYLLE

Published in the Belgian Official Gazette

July 2019

Worker's name	Belgian hourly wage rate	No. of hours worked	Total Belgian wage	Wage received	Allowance	Adjustment
Worker 1	15.534	72	1118.448	545	0	€ 573.45
Worker 2	15.534	August 2019 40	621.36	508.72	0	€ 112.64

Worker's name	Belgian hourly	No. of hours	Total Belgian	Wage received	Allowance	Adjustment
	wage rate	worked	wage			
Worker 1	15 524	64	004 176	FAF	0	£ 440 19
Worker 1	15.534	64	994.176	545	0	€ 449.18
Worker 2	15.534	72	1118.448	545	0	€ 573.45

September 2019

Worker's name	Belgian hourly	No. of hours	Total Belgian	Wage received	Allowance	Adjustment
	wage rate	worked	wage			
Worker 1	15.534	176	2733.984	545	0	€ 2.188.98
Worker 2	15.534	176	2733.984	545	0	€ 2.188.98

Total adjustment

Worker's name	July	August	September	TOTAL
Portuguese worker 1	€ 573.45	€ 449.18	€ 2.188.98	€ 3.211.61
Portuguese worker 2	€ 112.64	€ 573.45	€ 2.188.98	€ 2.875.07
			TOTAL	€ 6.086.68

Thank you for listening!



Any questions?