

The Belgian labour inspectorate

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network



Plan of the presentation

- A. The labour inspectorate**
- B. The Network directorates**
- C. Action taken to fight social fraud and social dumping**



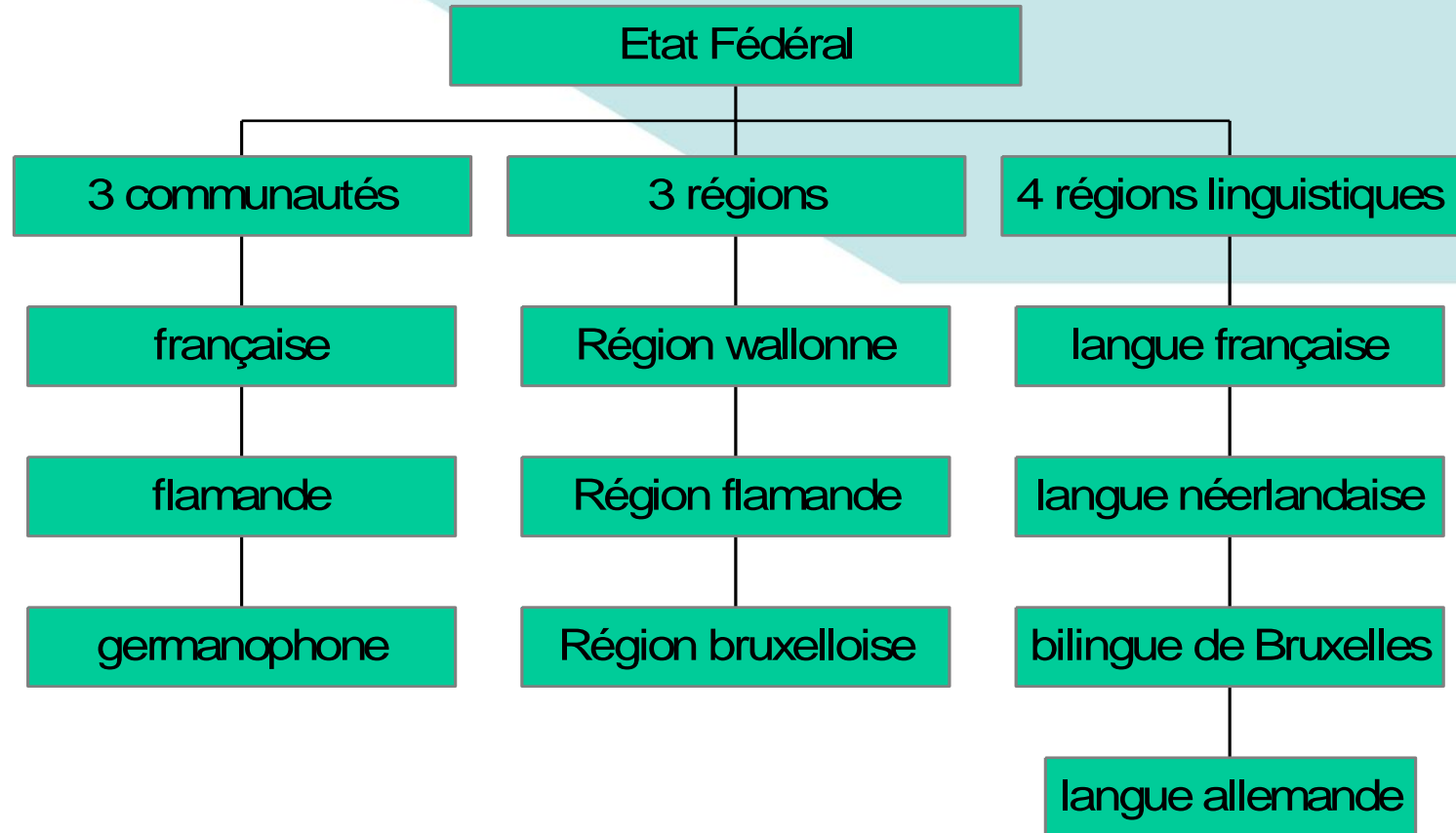
A. The Labour Inspectorate

Specialist rather than general

Reflects the federal and regional organisation of Belgium



Belgium = Federal State with communities and regions



Belgium = Federal State with communities and regions

Trois Communautés



La Communauté flamande



La Communauté française

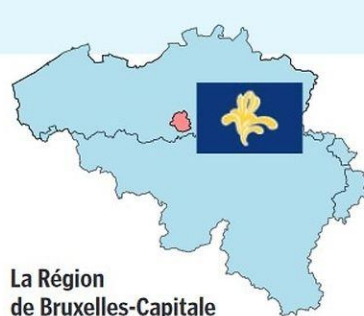


La Communauté germanophone

Trois Régions



La Région flamande



La Région de Bruxelles-Capitale



La Région wallonne

Source: www.lavenir.net



Several Belgian inspectorates

At federal level	At regional level
Supervision of Labour Legislation and Supervision of Well-being at work which belong to the Federal Public Service, Employment, Labour and Social dialogue Division.	Each region has its own inspectorate.
National Social Security Office (ONSS)	
National Labour Office (ONEM)	
Others: The Social Insurance Institute for Self-employed Persons (INASTI), the National Sickness and Invalidity Insurance Institution (INAMI), the General Administration on Taxes (AGFisc) etc.	



Shared responsibilities of the three federal inspectorates (CLS, ONSS, ONEM).

- Shared responsibilities in the fight against social fraud:
- Dimona declarations
- Legal labour records
- Work permits
- Limosa declarations
- Part-time work
- Professional cards for non-EU self-employed workers (except ONEM)
- Trafficking in human beings (except ONEM)
- Entry, temporary and permanent residence and expulsion of aliens (except ONEM)
- Currently, compliance with public health measures (Covid-19)



Supervision of Well-being at work

- Created on 01/01/2004 following the merger of two inspection bodies in the Federal Public Service, Employment and Labour Division:
 - technical inspection,
 - medical inspection.
- **Areas of responsibility**: occupational health and safety, ergonomics, occupational hygiene, psycho-social hazards, renovation of workplaces and environments to meet the requirements of the above, occupational accident insurance.



The ONSS inspectorate

- Its remit is to ensure that work carried out and remuneration is correctly declared to social security.
- The ONSS has regional offices. Each region has special units (crossborder fraud, multinationals, human trafficking, fraud network, general unit)
- It is responsible for ensuring employed workers receive the social security benefits to which they are entitled (correct declaration of work and remuneration, initiating proceedings for payment fraud), pensions, sickness/disability insurance and family benefits.



The ONEM inspectorate

- Each unemployment office has its own inspection department.
- Its remit is unemployment regulations, early retirement, career break schemes, time credit schemes, redundancy funds, service vouchers and employment incentive scheme frauds (activation).



Supervision of Labour Legislation

- Its remit is the employer-employee relationship with regard to employment, working and remuneration conditions.
- Organised in 22 directorates across the country.
- Both general and specialist directorates exist e.g. transport, posting, and a professional organisation directorate which deals with workplace elections and the correct operation of consultative bodies (works council, committee for prevention and protection at work).
- Call Center: info.cls@emploi.belgique.be 02/235.55.60



Main areas of responsibility of the Supervision of Labour Legislation

- Protection of remuneration
- Observance of working hours, Sundays and public holidays, night work regulations
- Compliance with collective bargaining agreements
- Drawing up of workplace rules
- Establishment of consultative bodies
- Observance of rules regarding temporary work and hiring out of workers
- Holiday bonuses
- Advice on employment contracts etc.



B. The Network directorates

- The first was set up in Flanders in 2006 and in Wallonia in 2008.
- 10 heads of directorates and 41 inspectors



Network directorates

Four are currently operational in Wallonia:

- Province of Liège (Liège)
- Province of Hainaut (Mons)
- Province of Namur/Luxembourg (Arlon)
- Province of Walloon Brabant (Nivelles)

A network directorate in the Brussels region:

- Brussels Capital

Five network directorates in Flanders:

- Province of Antwerp (Antwerp)
- Province of Flemish Brabant (Leuven)
- Province of Limburg (Hasselt)
- Province of Eastern Flanders (Ghent)
- Province of Western Flanders (Bruges)



C. Action taken to fight social fraud and social dumping



District units

- There is a district unit in each judicial district. It is presided by the public prosecutor for labour.
- Each unit is staffed by representatives of the National Social Security Office (ONSS), National Labour Office (ONEM), Social Insurance Institute for Self-employed Persons (INASTI), National Sickness and Invalidity Insurance Institution (INAMI) and Supervision of Labour Legislation (CLS) belonging to the Federal Public Service, Employment, Labour and Social dialogue division (employment division). The units also include a representative of the Federal Public Service Finance division, a magistrate from the public prosecutors office and a member of the federal police force. Representatives of other public social security organisations can also be invited. In some cases, regional inspection departments in charge of employment also belong to district units.



Action plan to fight labour fraud

There are three main priorities for 2021:

- Actions regarding the Covid-19 crisis
- Priority frauds such as social dumping, undeclared work, human trafficking and big city issues, benefit and home fraud, social contribution evasion and healthcare fraud
- The operational approach is sectoral (for those sectors most exposed to the risk of fraud)



Anti social dumping units

- This unit has officers from the CLS, ONSS and INASTI who specialise in posting issues.
- 10 large-scale actions are organised by this unit every year.



The main missions of the network, ONSS crossborder and INASTI directorate.

1. Inspect foreign companies posting workers on Belgian soil (and Belgian user undertakings)
2. Pursue investigations initiated in other regional directorates concerning large-scale fraud
3. Combat illegal hiring out of workers

Each department has a particular area of responsibility.

- ⇒ Tasks falling within the scope of different directorates are divided between them.
- ⇒ Examination of conditions of remuneration - Network Directorate (CLS)
- ⇒ Examination of applicable legislation (social security cover) for the crossborder unit (ONSS)
- ⇒ Examination of the terms of applicable legislation for self-employed workers (INASTI)



SECTOR OR TYPE OF FRAUD	2021
BUILDING	2,000
ELECTRO	400
METALWORKING AND ENGINEERING	100
CLEANING	320
AGRICULTURE AND HORTICULTURE	100
HOTELS, RESTURANTS AND CATERING	800
TRANSPORT	900
MEAT	50
TAXIS	50
REMOVALS	50
CARETAKING	40
CAR WASHES	200
FUNERAL SERVICES	50
BIG CITIES	500
DUMPING	2,000
TO BE DETERMINED (including unannounced inspections)	2,440
COVID 19 INSPECTIONS	1,000
	11,000



1. The Limosa declaration

Mandatory declaration of workers from abroad.

(Identification of any foreigner working in Belgium without being covered by Belgian social security = a second dimona)

- ✓ Foreign employed workers
- ✓ Foreign self-employed workers
(in the building, meat processing and cleaning sectors)



who come to Belgium to work on a temporary or part-time basis



The Limosa declaration

- The purpose of this mandatory declaration is to combat crossborder social fraud and social dumping. It provides the authorities with a central database of people from abroad working in Belgium and simplifies labour inspections.
- It is then easier for labour inspectors to check whether posted workers have been declared with their own social security authorities and also ensure that Belgian legislation on working conditions and remuneration is properly applied.



Dispensations

❖ Employed workers

- Working in international passenger transportation and goods haulage unless this concerns inland transportation, i.e. between two places in Belgium.
- Working on the initial assembly and/or installation of goods, which is an essential component of a contract for the supply of the goods and which is necessary for the operation of the goods in question and which is performed by qualified and/or specialised workers belonging to the company providing the goods (max. 8 days). This dispensation is not applicable to building work.
- Coming to Belgium to attend a scientific congress.
- Coming to Belgium to attend small-group meetings (max. 60 days per calendar year).



Dispensations

- Employed by a public authority
- Employed by an international organisation based in Belgium provided that the organisation is governed by a treaty that has been ratified.
- The members of a diplomatic or consular delegation
- People residing outside Belgium, employed by an employer based abroad and coming to Belgium to take part in international sporting events such as referees, support staff, official delegates, staff and persons accredited and/or recognised by national or international sporting federations (max. 3 months)
- Internationally known artists and essential staff whose presence is required for their performance (max. 21 days per quarter).
- Researchers and members of a scientific team residing outside Belgium and employed by a university or scientific institution based abroad who are participating in a scientific programme in a host university or scientific institution in Belgium (max. 3 months per calendar year).



Mandatory information

❖ Employed workers:

- Worker identification including the national identification number in the home country if such a number exists
- Identification data of the employer and the liaison officer if they are making the posting declaration.
- Identification data relating to the Belgian user.
- The planned start and end date of the posting.
- The working hours
- Status of the worker (temporary or not) as well as whether the employee is performing activities related to the building sector as part of the posting.
- The place where the work is performed in Belgium.



Mandatory information

❖ Self-employed workers

- The national identification number or VAT number from the home country, if it exists
- Identification data relating to the Belgian user
- The planned start and end date of the posting.
- The place where the work is performed in Belgium
- Whether the self-employed worker is performing activities related to the building sector as part of the posting.



Limosa declarations

 **Preuve de déclaration Limosa (Document L1)** 

 Déclaration préalable d'un employé 

Date et heure de la déclaration 11/07/2014 10:40
Numéro de déclaration 24910162627828040
Période d'occupation 01/01/2015 - 31/12/2015

Travailleur

Identification

Nom	JOBBI	Prénom	GHITS
N° d'identification belge	80410388126		

Entreprise

Identification

N° d'identification	112000620923	Nom	Cleaning
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Adresse

Rue	High Street	Commune	London
Code postal	A1 1AA		
Pays	Grande-Bretagne		

Client belge

Identification

N° d'identification		Nom	Belgium Logistics
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Adresse

Code postal	1000	Commune	Brussels
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Lieu d'occupation

Entreprise

Nom	Cleaning Site	Commune	Antwerp
Code postal	2000		

limosa | limosa | Quai de Willebroeck 38 | 1000 Bruxelles | Belgique
centre de contact limosa: tél.: +32 2 789 21 27 (du lundi au vendredi, 7h - 20h, sans-foi) | fax: +32 2 789 21 18 | e-mail: limosa@aspcare.fgov.be

Ce formulaire prouve uniquement que la déclaration Limosa a été effectuée et ne vous décharge en aucun cas des autres obligations qui vous incombent en ce qui concerne les prestations de services et/ou l'occupation en Belgique. Voir www.limosa.be.





The Limosa declaration

Acknowledgement of receipt L1

It should be noted that there is no legal obligation to have the acknowledgement of receipt of the declaration available for consultation by labour inspectors at the workplace.

Declaration Certificate
Preceding declaration
of a foreign employee

Time of the declaration: 08/02/2006 08:14
Declaration number: TIC00251
Posting period: 19/01/2007 - 04/02/2007

Employee		Name	Firstname
Identification	Idem	09110210906	Franc
Name	Idem		
Idem	Idem		
Social Security	Idem		

Company		Name
Identification	Idem	Stevy Plumbing
Idem	Idem	
Address	Idem	
Street	Idem	
Nr.	Idem	
Postal code	Idem	
Country	Idem	

Belgian client		Name
Identification	Idem	Solid Construct NV
Idem	Idem	
Address	Idem	
Street	Idem	
Nr.	Idem	
Postal code	Idem	
Country	Idem	

Place of employment in Belgium		PO Box
Construction site	Idem	
Name	Idem	
Street	Idem	
Nr.	Idem	
Postal code	Idem	

Limosa Contact Center: +32 2 798 21 97 | Monday to Friday | www.limosa.be
Limosa | PO Box 224 | B-1080 Brussels | Belgium

This form merely provides proof that a Limosa declaration has been made.
It does not satisfy other obligations in respect to the provision of services and/or employment in Belgium.

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Working and employment conditions - core provisions of directive 96/71.

- The core of the directive must be complied with by employees irrespective of the duration of the posting
- It consists of:
 - maximum work periods and minimum rest periods
 - minimum paid annual leave
 - remuneration, including overtime rates
 - the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings
 - health, safety and hygiene at work
 - protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people
 - equality of treatment between men and women and other provisions on non-discrimination
 - the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work
 - allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons



Working and employment conditions in Belgium: Act of March 5, 2002

The law distinguishes between postings of under twelve months and postings of over twelve months

Postings under twelve months:

Any employer employing a posted worker in Belgium is required - for the work performed there - to comply with the statutory and regulatory working, employment and remuneration conditions liable to penal sanctions as well as with the provisions of collective bargaining agreements made compulsory by the Act of December 5, 1968 concerning collective labour agreements and joint committees.



Working and employment conditions Postings under twelve months

BUT (transposition of directive 2018/957):

The payment of allowances or the reimbursement of expenditure on travel, board and lodging incurred by employees working away from home for professional reasons are only considered to be terms and conditions of employment, work and remuneration insofar as they are incurred by posted workers travelling to or from their usual place of work in Belgium or when they are temporarily sent from this workplace to another workplace by their employer.



Concept of remuneration

- “Remuneration, benefits and allowances made payable by collective bargaining agreements and made compulsory by the Act of December 5, 1968 with regard to collective bargaining agreements and joint committees with the exception of contributions to supplementary occupational pension schemes. Unless the allowances specific to the posting concern expenditure actually incurred on account of the posting, such as expenditure on travel, board and lodging, they shall be considered to be part of the remuneration.”
- The entire allowance shall be considered to be paid in reimbursement of expenditure unless the terms and conditions of employment that apply to the employment relationship determine which elements of the allowance are allocated to the reimbursement of expenditure incurred on account of the posting and which are part of remuneration.



Working and employment conditions Postings over twelve months

Where the effective duration of a posting in Belgium exceeds twelve months, with regard to the work carried out after this twelve-month period, employers have been required since July 30, 2020 to comply with the supplementary conditions of employment, work and remuneration applicable in Belgium pursuant to:

- statutory and regulatory provisions (royal decrees)
- the provisions of collective bargaining agreements made compulsory by royal decree in accordance with the Collective Bargaining Agreements and Joint Committees Act of December 5, 1968 (i.e. those collective bargaining agreements liable to penal sanctions)



Working and employment conditions Postings over twelve months

Temporary exception pursuant to the sending of a reasoned statement

The law provides for a temporary exception to the obligation to apply the supplementary working conditions.

- The employer can send a reasoned statement requesting exemption for an additional six months.



Obligation to keep certain records

- Employers posting workers to Belgium are not obliged to establish and keep the individual statement of earnings and pay slips for twelve months provided that they can submit to the Belgian labour inspectorate upon request the equivalent documents from the home country and/or a translation in French, Dutch, German or English thereof.
- For one year subsequent to the end of the posting, employers must be able to provide the Belgian labour inspectorate **upon request** with the Acknowledgement equivalent documents from the home country and/or a translation in French, Dutch, German or English thereof.
- These records may be submitted as hard copy or in electronic form.
- Should employers fail to submit the foreign equivalent to the [individual statement of earnings](#) and [pay slip](#) and/or a translation in French, Dutch, German or English thereof when requested to do so, they are required to establish and keep an individual statement of earnings and pay slip.



Obligation to keep certain records

Employers posting workers to Belgium are required to submit the following to the Belgian labour inspectorate upon request:

1. a copy of the employment contract of the posted worker or any equivalent document
 2. information regarding the currency in which remuneration is paid, consideration in cash or in kind related to the posting and the conditions of repatriation of the posted worker
 3. the time sheet indicating the start, end and duration of the working day of the posted worker
 4. proofs of payment of the posted worker
 5. where applicable, a translation in French, Dutch, German or English of the above
- These records may be submitted as hard copy or in electronic form.
 - Employers may be required to submit the above-mentioned documents to the Belgian Labour Inspectorate on request for one year following the end of the period of employment in Belgium.



Liaison officer

- Prior to employing posted workers, the employer is required to appoint a liaison officer. This is a natural person in charge of liaising between the employer and the labour inspectorate. They may be contacted and asked to provide and receive all documents relating to the employment of the posted workers. Although they work for the employer, it is the employer who remains liable in the event of breaches of the law.



Joint and several liability

- In the event of the failure of an employer to pay the worker all or part of the wages due, the Act of April 12, 1965 on the protection of workers' wages and salaries provides for joint and several liability schemes which enable the worker, under certain conditions, to obtain the payment of the wage from third parties known as jointly and severally liable debtors.
- First of all, the [Act of April 12, 1965](#) provides a general scheme of joint and several liability for unpaid wages



Joint and several liability

General scheme

1. This concerns wages owed by the employer to the worker which have not been paid.
2. The debtors are jointly and severally liable for a period which is determined by the Labour Inspectorate in the notification which it sends to them. This period starts 14 working days after notification by the Labour Inspectorate and may not exceed one year.
3. Joint and several liability for unpaid wages applies only to the wages that became due during the period of joint and several liability. It therefore only applies to future unpaid wages (and not to unpaid wages due prior to the period of joint and several liability).
4. Lastly, joint and several liability does not apply to the allowances to which the worker is entitled following the termination of his/her employment contract (e.g. pay in lieu of notice)



Joint and several liability

Special scheme for joint and several liability for unpaid wages applicable to the construction sector

- This special scheme for construction-related activities is only applicable in the case of a direct contractual relationship, irrespective of whether there is a chain of subcontractors or not.
- Two categories of potential jointly and severally liable debtors are covered by this special scheme:
- on the one hand, the client in direct contractual relationship with a contractor-employer and,
- on the other hand, irrespective of whether there is a chain of subcontractors or not, the contractor and the intermediate contractor (= subcontractor) in a direct contractual relationship with a subcontractor-employer.
- However, this special joint and several liability scheme is not applicable to a client-natural person who has the aforementioned activities carried out for exclusively private purposes (e.g. Someone having a house built).



Joint and several liability

Special scheme for joint and several liability for unpaid wages applicable to the construction sector

➤ Joint and several liability of the client

1. A client who calls in a contractor for construction-related activities is jointly and severally liable for paying the wages due to the worker employed by this contractor for the work performed for the benefit of this client.
2. However, the client is not jointly and severally liable if they are in possession of a written declaration, signed by themselves and the contractor, in which:
the client provides the contractor with the [address of the Federal Public Service, Employment, Labour and Social Dialogue Division's website where information on the wages due is available](#) and;
the client's contractor certifies that they pay and will pay the wages due to the workers of this contractor.



Joint and several liability

Special scheme for joint and several liability for unpaid wages applicable to the construction sector

- **Joint and several liability of the contractor and the intermediate contractor (direct subcontracting)**
 1. The contractor (when there is no chain of subcontractors) and the intermediate contractor (when there is a chain of subcontractors) who use a subcontractor for construction-related activities are jointly and severally liable for paying the wages due to the worker employed by that subcontractor corresponding to the work performed for the benefit of the contractor or intermediate contractor, as the case may be.



Joint and several liability

Special scheme for joint and several liability for unpaid wages applicable to the construction sector

- **Joint and several liability of the contractor and the intermediate contractor (direct subcontracting)**

- 2. The contractor and the intermediate contractor are not jointly and severally liable if they are in possession of a written declaration, signed by themselves and their subcontractor, in which:
 - the contractor and, if applicable, the intermediate contractor provide their subcontractor with the [address of the Federal Public Service, Employment, Labour and Social Dialogue Division's website where information on the wages due is available](#) and;

 - the contractor's or intermediate contractor's subcontractor certifies that they pay and will pay the wages due to their workers.



Questions



Merci pour votre attention

