

Single national official website of Belgium – short analysis

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European Labour Mobility Institute [ELMI], formerly known as Labour Mobility Initiative Association (LMIA)] is a non-governmental think-tank involved in the matters of freedom to provide services and work mobility. Since 2013 we have been bringing together the employers, scholars, workers as well as public administration officers and we have created the only Polish and European forum dedicated exclusively to the exchange of knowledge on the posting of workers within the framework of freedom to provide services.

The ELMI supports the improvement of the quality of the law (Polish and European) and its clear, uniform and lawful interpretation. It contributes to the detection of irregularities in the law, improvement of its quality and clear interpretation thereof by reviewing legal acts that are important for cross-border labour mobility. In addition, it combats human trafficking, undeclared work and bogus self-employment.

The purpose of this short overview is to analyze the so-called **'single national official website'** of Belgium. The overview (perhaps to be supplemented by further research and examples) does not pretend to be a full-scale report of the topic. Yet, given the fact that pursuant to the Work Programme of the European Labour Authority 2021 *'[p]articular attention will be dedicated to information provided by single national websites on the posting of workers, following the entry into force of Directive (EU) 2018/957, whereby ELA will carry on with peer review activities initiated by the Committee of Experts on Posting of Workers²*, it might provide a useful basis for further research and discussions.

The overview includes the legal and factual state of play as of 20 September 2021.

¹ Cf. Art. 5 Directive 2014/67/EU and Art. 1(2) para. 4 Directive 2018/957/EU.

² Work Programme of the European Labour Authority 2021, Brussels, 15 December 2020, p. 13.

State of play

The address of the Belgian website, as provided by the European Commission's general website is as follows:

https://employment.belgium.be/en/themes/international/posting/liaison-offices-and-labour-inspectorate#toc_heading_1

Conditions resulting from PWD	<i>Remarks and comments</i>
<i>'indicate clearly, in a detailed and user-friendly manner and in a accessible format (...), which terms and conditions of employment and/or which</i>	<p>The website is generally rather clear and transparent, as evidenced also by observations of the ELMI Members, posting workers to Belgium.</p> <p>On the left-hand side of the website, there is, among other, a clear tab (heading) 'Posting' with three sub-tabs (sub-headings), including <i>Working conditions to be respected in case of posting to Belgium</i>'.</p> <p>That section contains three main topics:</p> <p>a) <u>General scheme</u></p> <p>b) <u>Special scheme applicable from 30 July 2020 where posting actually exceeds 12 months</u></p>

parts of their national and/or regional law are to be applied to workers posted to their territory' (Art. 5(2)(a) Directive 2014/67/EU)

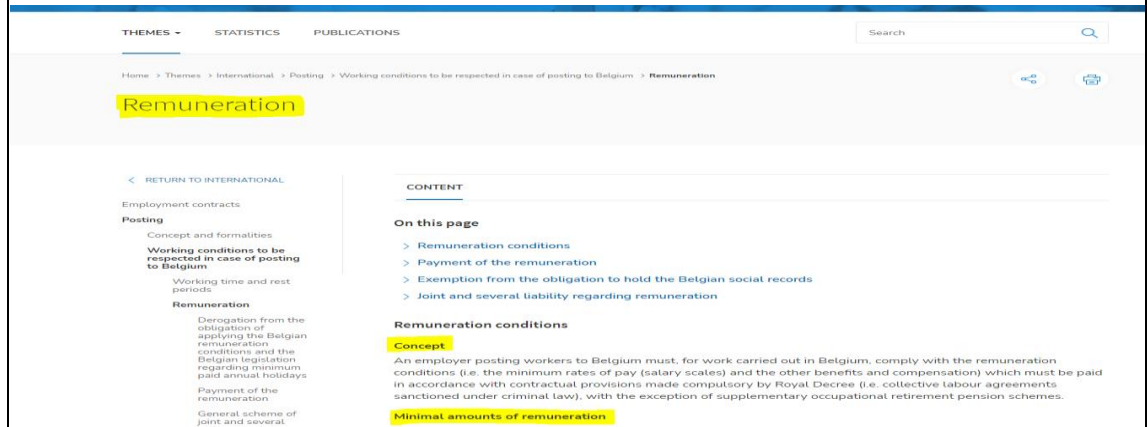
- information should be **'accurate and up to date'** (Art. 1(2)(a) indent 5 Directive 2018/957/EU / Art. 3(1) indent 5 of the revised PWD)

c) Possible exception based on a motivated notification where the posting exceeds 12 months (applicable as from 30 July 2020)

The section contains an active link to **'remuneration'** (as well as to all other **terms and conditions of employment of posted workers in host Member States**).

When clicking at it, one gets redirected to a separate sub-tab (web sub-page) concerning remuneration.

It shows firstly the concept of remuneration in Belgian law, then other relevant information thereon.



It sets out the minimal amounts of remuneration laid down by sectorial collective labour agreements ('CLAs'), concluded within competent so-called 'joint committees' with examples of 12 separate active links, redirecting to PDF documents (e.g. 'JC 111 Metal, machine and electric construction for workers'; 'JC 118 Food industry (...)') etc.).

Advantage points of the information provided in the very section:

1. The above-mentioned PDF documents are provided in English;
2. The PDFs contain separate sections, including 'Scope of application' and 'Remuneration' which **could help service provider identify sectors of activity** of workers they post to Belgium and **the remuneration + bonuses to be paid to them**.
3. A service provider may **contact the Belgian Labour Inspectorate via the e-mail address provided**, to find out to which sector of activities they belong.
4. **Minimal amounts of remuneration laid down by National (inter-professional) collective agreement** have been provided.
5. It was a useful exercise to provide information concerning **'Joint and several liability regarding remuneration'** (bottom of the 'Remuneration' sub-tab; generally – a rarity among websites of other Member States).
6. **Information has been provided also on a number of practical issues**, such as payment of remuneration or exemption from the obligation to hold the Belgian social records or a specific system exclusively concerning the joint and several liability of the direct contractor in case of building activities.
7. **Information has been provided in a rather clear manner** throughout the website / sub-tab.

Disadvantage points of the information provided in the very section:

1. Only a selection of sectors of activities was covered;
2. Where the activity relates to a sector which is not described in one of the above-mentioned PDFs, **an information regarding the sectorial CLAs concluded within a joint committee can be found via the webpages provided** – which **unfortunately are only in French and Dutch**;
3. In cases of certain institutions – **information has been provided in different parts of the website (sub-tab on remuneration)** – e.g. on joint and several liability. **This may lead the users of the website to confusion.**

<p>- necessary measures to make generally available on the single official national website (...) information on which collective agreements are applicable and to whom they are applicable, and which terms and conditions of employment are to be applied by service providers from other Member States in accordance with Directive 96/71/EC, including where possible, links to existing websites and other contact points, in particular the relevant social partners (Article 5(2)(b) Directive 2014/67/EU)</p>	<p>The remarks contained in the section above may also be taken into consideration herein.</p> <p>Apart from them:</p> <p><u>Advantage points of the information provided in the very section:</u></p> <p>1. Active links which enable the readers to go directly to CLAs;</p> <p><u>Disadvantage points of the information provided in the very section:</u></p> <p>1. The links to the existing websites are not exhaustive; no 'other contact point' has been indicated (nor a lack thereof has been signaled to users);</p> <p>2. There is another link on 'Working conditions provided by collective agreements made compulsory by Royal Decree (sanctioned under criminal law)' – lack of clarity and risk of confusion, the issues could have been consolidated into one document (sub-tab etc.).</p>
<p>Long-term posting (Article 1(2)(b) of Directive 2018/957/EU)</p>	<p>A separate sub-tab 'Additional working conditions applicable as of 30 July 2020 if the period of posting exceeds 12 months' has been created at the website (direct address: https://employment.belgium.be/en/themes/international/posting/working-conditions-be-respected-case-posting-belgium/additional).</p> <p>Moreover, a separate sub-tab 'Motivated notification where the posting exceeds twelve months' has been created at the website (direct address: https://employment.belgium.be/en/themes/international/posting/working-conditions-be-respected-case-posting-belgium/motivated).</p> <p>Those two separate sub-tabs stand out very positively among single national official websites of other Member States.</p> <p>However, there are two disadvantage points of the information provided in the very section:</p> <p>1. The issue of additional working conditions has been discussed in two separate places across the Belgian website, with different contents though (perhaps to be supplementary to each other) – it could be confusing for users.</p> <p>2. There has been no indication / description of circumstances that under Belgian law stop / cancel the running of the time period counted towards 12 (18) months; nor the indication that there is no such circumstances at all. Having at least the latter information would be very helpful for the website's users.</p>

<p>- improve the accessibility and clarity of the relevant information, in particular that provided on a single official national website (Article 5(2)(d) Directive 2014/67/EU)</p>	<p>The accessibility and clarity of the relevant information (save for remarks indicated herein) has been significantly improved as compared to the previous versions of the single national official website of Belgium.</p>
<p>- indicate a contact person at the liaison office in charge of dealing with requests for information (Article 5(2)(e) Directive 2014/67/EU)</p>	<p>A separate sub-tab 'Liaison offices and labour inspectorate' has been created at the website (direct address: https://employment.belgium.be/en/themes/international/posting/liaison-offices-and-labour-inspectorate).</p> <p>It fulfills the requirements provided for by the appropriate provision of the 2014/67/EU Directive.</p>
<p>Duty to make statements</p>	<p>There is a separate link for lodging the Limosa posting declaration (in case of posting workers to Belgium): https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html</p> <p>However, the very link has been provided within the sub-tab on 'Motivated notification where the posting exceeds twelve months'. Such positioning will render it very difficult for inexperienced users to find it and make use thereof. The link should be transferred to the main 'Posting' tab.</p>

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