



F.I.S. Flexicurity integrated services

Desk Analysis in Belgium

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INTRODUCTION

Flexicurity' and the concept 'manager'

It is currently common knowledge that the term 'flexicurity' describes a political strategy adopted by the European Commission that promotes a balance between flexibilisation of the labour market and social security. Flexicurity is seen to contain four essential components:

- Flexible and reliable contractual arrangements through modern labour law, collective agreements and forms of work organisation;
- Comprehensive lifelong learning (LLL) strategies to ensure the continual adaptability and employability of workers, particularly the most vulnerable;
- Effective active labour market policies that help people cope with rapid change, reduce unemployment spells and ease transitions to new jobs;
- Modern social security systems that provide adequate income support, encourage employment and facilitate labour market mobility.

For the purpose of this paper our focus lies on the second component. We will in particular focus on the training of the white-collar – cadre and the white-collar – leading personnel. In Belgian labour law the concept 'manager' is unknown. Leading personnel and supervisors are classified as white-collar workers under Belgian law.¹ The Royal Decree of 15 May 2003 defines the term 'leading personnel' as 'employees who are charged with the daily management of the plant'. It should be stressed that leading supervisory personnel are not involved in collective bargaining, or represented in trade union committees. Since 1985, however, 'cadres' have been explicitly recognized as a separate subcategory of white-collar workers in the framework of the 1948 Act on Works Councils. 'Cadres' are white-collar workers who, although they are not leading personnel perform a function in the company which in general is reserved to the holder of a certificate of a given level or to someone with equivalent job experience.

¹ The employment contract for white-collar workers presupposes that the employee mainly performs intellectual work (Art. 3 Employment Contract Act).

However, for reasons of clarity it seems appropriate to use the word ‘manager’ as an alternative to ‘leading personnel’ and ‘cadres’.

The Belgian labour market

The Belgian labour market has been characterized by discontinuous trends. The unemployment rate has decreased until 2002 and then again between 2005 and 2008. To coincide with the current financial and economic crisis, the unemployment rate has increased (1.3 %). This last negative trend has affected also the employment rate regarding the category of senior officials and managers, which has recorded a sharp decline between 2007 and 2008.

The aim of this paper is to examine how LLL is organised and funded for these specific categories of workers. Part I gives an overview of some statistics relating to the subject of training of employees in general. Part II gives an overall picture of the relevant legislation on this topic accompanied by some critical assessments. Part III is an appraisal of the Belgian approach in the light of the flexicurity concept, focusing on white-collar – cadre and the white-collar – leading personnel. Part IV provides some conclusions.

II. STATISTICS

Statistical data can be found in the following data sources:

- continuous labour force survey
- The Labour Force Survey (*arbeidskrachtenenquête (EAK)*)
- The social balans from the National Bank of Belgium (*Nationale Bank van België (NBB)*) and the National Office for Social Security (*Rijksdienst voor Sociale Zekerheid (RSZ)*)
- The five-yearly Continuing Vocational Training Survey
- Collective labour agreements and annual reports.

Table	BEV04e									
Title	Number of EMPLOYEES that followed a training under the system of PAID EDUCATIONAL LEAVE according to AGE									
Professional status	Employee									
Regio	Belgium									
Unit	Persons									
Reference period	Scholar years 1999/2000 - 2008/2009 included									
Periodicity	six months (end march, end september)									
Source	Fod Waso (National Government)									
Last adaptation	30 sept 2010									
Remarks										
	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007	2007/2008	2008/2009
15-19	737	828	725	577	602	562	608	695	710	491
20-24	7.991	8.923	8.569	8.380	8.821	8.113	7.499	7.620	8.892	8.542
25-29	10.067	11.044	10.884	11.619	12.389	12.888	11.974	12.212	13.555	13.645
30-34	9.310	10.575	10.176	11.244	11.955	12.023	10.285	10.292	11.383	11.261
35-39	9.104	11.007	10.653	12.119	12.850	12.669	11.198	10.599	11.636	11.341
40-44	7.154	8.598	8.435	10.000	11.487	12.056	11.262	11.116	12.025	11.965
45-49	4.929	5.967	5.901	7.154	8.218	8.861	8.582	8.749	9.791	10.268
50-54	2.497	3.036	3.004	3.879	4.608	4.956	4.868	5.245	6.004	6.244
55-59	497	627	680	903	1.124	1.290	1.424	1.629	1.967	2.185
60-64	46	42	42	65	96	104	114	163	233	225
64+	1	1	1	4	7	4	7	6	11	8
TOT.	52.333	60.648	59.070	65.944	72.157	73.526	67.821	68.326	76.207	76.175

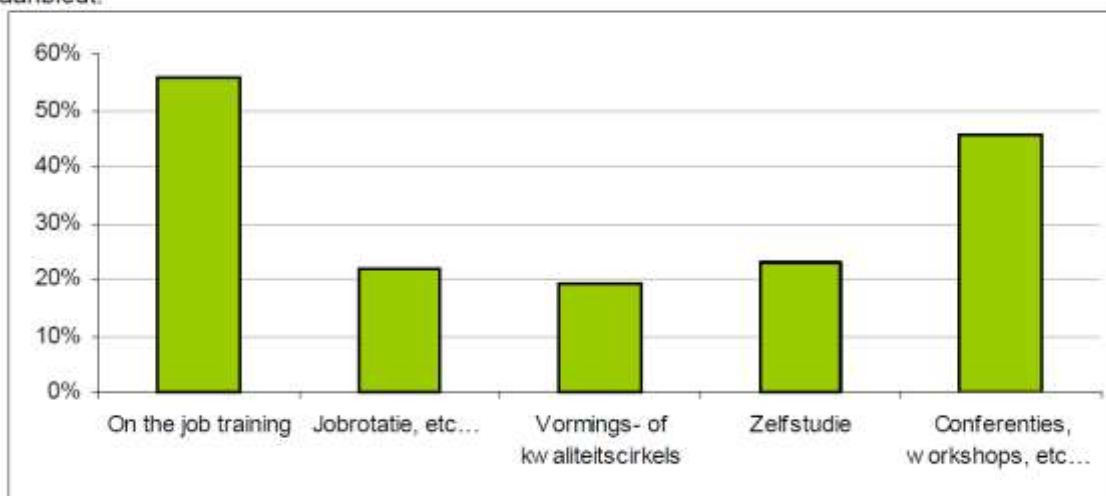
Source: <http://www.werk.belgie.be/moduleDefault.aspx?id=6480>

Table	BEV04h
Title	Number of EMPLOYEES that followed a training under the system of PAID EDUCATIONAL LEAVE according to SEX, STATUTE and REGION
Professional status	Employee
Regio	Belgium
Unit	Persons
Reference period	Scholar years 1999/2000 - 2008/2009 included
Periodicity	six months (end march, end september)
Source	Fod Waso (National Government)
Last adaptation	30 sept 2010
Remarks	

		BRUSSELS			FLANDERS			WALLOON Provinces			TOTAL BELGIUM		
		Man	Woman	Total	Man	Woman	Total	Man	Woman	Total	Man	Woman	Total
1999/2000	Blue-collar	3.914	406	4.320	19.224	3.063	22.287	5.861	481	6.342	28.999	3.950	32.949
	White-collar	1.750	1.983	3.733	5.401	6.883	12.284	1.932	1.420	3.352	9.083	10.286	19.369
	Total	5.664	2.389	8.053	24.625	9.946	34.571	7.793	1.901	9.694	38.082	14.236	52.318
2000/2001	Blue-collar	3.899	554	4.453	23.117	4.319	27.436	5.817	593	6.410	32.833	5.466	38.299
	White-collar	1.942	2.874	4.816	5.563	8.173	13.736	2.041	1.740	3.781	9.546	12.787	22.333
	Total	5.841	3.428	9.269	28.680	12.492	41.172	7.858	2.333	10.191	42.379	18.253	60.632
2001/2002	Blue-collar	4.334	776	5.110	23.422	4.244	27.666	5.308	525	5.833	33.064	5.545	38.609
	White-collar	1.957	2.038	3.995	5.518	7.753	13.271	1.664	1.527	3.191	9.139	11.318	20.457
	Total	6.291	2.814	9.105	28.940	11.997	40.937	6.972	2.052	9.024	42.203	16.863	59.066
2002/2003	Blue-collar	6.970	812	7.782	23.463	4.237	27.700	5.438	570	6.008	35.871	5.619	41.490
	White-collar	3.154	2.704	5.858	6.216	9.025	15.241	1.761	1.587	3.348	11.131	13.316	24.447
	Total	10.124	3.516	13.640	29.679	13.262	42.941	7.199	2.157	9.356	47.002	18.935	65.937
2003/2004	Blue-collar	8.926	812	9.738	24.959	4.914	29.873	6.376	641	7.017	40.261	6.367	46.628
	White-collar	2.676	2.741	5.417	6.315	9.746	16.061	1.994	2.041	4.035	10.985	14.528	25.513
	Total	11.602	3.553	15.155	31.274	14.660	45.934	8.370	2.682	11.052	51.246	20.895	72.141
2004/2005	Blue-collar	8.276	821	9.097	25.483	5.534	31.017	5.821	706	6.527	39.580	7.061	46.641
	White-collar	2.757	2.972	5.729	6.551	10.182	16.733	2.116	2.271	4.387	11.424	15.425	26.849
	Total	11.033	3.793	14.826	32.034	15.716	47.750	7.937	2.977	10.914	51.004	22.486	73.490
2005/2006	Blue-collar	5.714	602	6.316	24.045	5.201	29.246	5.301	630	5.931	35.060	6.433	41.493
	White-collar	2.489	2.949	5.438	6.220	10.487	16.707	2.003	2.168	4.171	10.712	15.604	26.316
	Total	8.203	3.551	11.754	30.265	15.688	45.953	7.304	2.798	10.102	45.772	22.037	67.809
2006/2007	Blue-collar	5.511	603	6.114	23.672	4.859	28.531	5.753	591	6.344	34.936	6.053	40.989
	White-collar	2.563	3.113	5.676	6.398	10.965	17.363	2.120	2.165	4.285	11.081	16.243	27.324
	Total	8.074	3.716	11.790	30.070	15.824	45.894	7.873	2.756	10.629	46.017	22.296	68.313
2007/2008	Blue-collar	5.898	701	6.599	25.727	7.452	33.179	6.617	662	7.279	38.242	8.815	47.057
	White-collar	2.732	3.371	6.103	6.583	11.583	18.166	2.356	2.432	4.788	11.671	17.386	29.057
	Total	8.630	4.072	12.702	32.310	19.035	51.345	8.973	3.094	12.067	49.913	26.201	76.114
2008/2009	Blue-collar	5.387	792	6.179	23.835	8.067	31.902	5.483	748	6.231	34.705	9.607	44.312
	White-collar	2.726	3.654	6.380	7.123	12.982	20.105	2.580	2.707	5.287	12.429	19.343	31.772
	Total	8.113	4.446	12.559	30.958	21.049	52.007	8.063	3.455	11.518	47.134	28.950	76.084

Source: <http://www.werk.belgie.be/moduleDefault.aspx?id=6480>

Grafiek 2: Percentage ondernemingen dat een vorm van minder formele en informele opleiding aanbiedt.



Source:

http://economie.fgov.be/nl/modules/publications/statistiques/arbeidsmarkt_levensomstandigheden/Vormingsinspanningen_Belgische_ondernemingen.jsp

Translation :

Percentage of enterprises that offer some kind of less formal or informal training, *e.g.* on the job training, job rotation, training and quality circles, self education, conferences, workshops etc.

Tabel 17: Aandeel interne en externe opleiding, volgens grootteklasse, sector en regio

	Interne vorming	Externe vorming
Totaal	59,6 %	40,4 %
GROOTTEKLASSE		
10-19	54,1 %	45,9 %
20-49	51,1 %	48,9 %
50-249	43,2 %	56,8 %
250-499	53,3 %	46,7 %
500-999	55,1 %	44,9 %
>1000	73,0 %	27,0 %
SECTOR		
Transport, opslag en communicatie	76,1 %	23,9 %
Financiële instellingen	63,6 %	36,4 %
Overige Industrie	61,6 %	38,4 %
Immobiëlen en andere dienstverlening	60,0 %	40,0 %
Horeca	59,8 %	40,2 %
Metaal	50,8 %	49,2 %
Energie en Water	50,3 %	49,7 %
Verkoop en herstellingen	46,2 %	53,8 %
Bouw	29,4 %	70,6 %
REGIO		
Vlaanderen	55,1 %	44,9 %
Wallonië	51,8 %	48,2 %
Brussel	68,0 %	32,0 %

Translation:

Investment in training breakdown by size, sector (transport, financial institutions, industry (other), real estate, catering, metal, energy and water, sale and repairs and construction) and region (Flemish Region, Walloon Region and Brussels-Capital Region).

III. Regulatory framework

Belgium is a federal state, composed of communities (French Community, Flemish Community and a German speaking community) and regions (the Walloon Region, The Brussels-Capital Region and the Flemish Region). All of these entities have competence in the field of flexicurity. This explains why the Belgian flexicurity landscape is fragmented. Moreover it must be underlined that the role of the social partners is very important in these matters, such as training, since, for an important part, they are established in collective labour agreements (CLA).²

The relevant legislation on continuing education

Introduction

Belgian labour law does not include an individual right to training provided by the employer.

However, specific provisions on the employer's obligation to provide special training to specific categories of employees have been introduced. For instance, teleworkers receive an adequate vocational training regarding the use of the technical equipment which is put at their disposal and of the working of the internet. The hierarchical superiors and the direct colleagues of the teleworkers can also be trained for this form of work and for the management thereof.³ There are also provisions with regard to specific training, such as the employer's duty to provide proper training on safety matters to his employees, including leading personnel.⁴

Logically, there is no legal general obligation of employees to participate in training. It should, however, be pointed out that they have an implied obligation. The sanctions for the employee who does not undertake obligatory training, may depend on the consequences of *his decision and the question of whether they were foreseeable. In case an employee* refuses to take part in a course which is necessary to be able to continue his job, this may lead to his dismissal or change of work. Some specific categories, like the prevention advisor of the company, have a real duty to follow specific training.

² In Belgium national collective labour agreements, which are extended by Royal decree, are hard law. Infringement of these CLA is a criminal offence.

³ CLA No. 85.

⁴ Royal Decree of 27 March 1998 uses the term 'hiërarchische lijn', literally 'hierarchical line'.

The existing regulations with regard to training are traditional in the sense that they generally provide training on a specific ground or to specific groups. As a general rule training is not seen as part of ‘life-long-learning’, that needs continuous attention but as an incident that occurs on certain specific occasions during working life.

General arrangements

Paid educational leave

Unlike arrangements at company or branch level, the system of paid educational leave gives certain employees the right to follow on their initiative and on their individual title training activities.⁵ Only employees employed by the private sector can, under the conditions described below – invoke the arrangements regarding paid educational leave.⁶ Whereas in the past the regulation regarding paid educational leave was only open to full-time employees and their equivalent, now certain categories of part-time workers and other persons under authority also have this right.⁷

During paid educational leave, full-time employees have the right to be absent from work, while retaining their normal pay or wage, for a number of hours which corresponds to the number of hours comprised by the courses being attended (vocational training or general education) and for which an annual maximum is fixed by the law.

Employees who wish to exercise their right to paid educational leave inform their employer in writing and indicate their envisaged absences. The employee who takes advantage of his right tot paid educational leave cannot be dismissed, except for reasons which have nothing to do with this leave. This protection covers the period from the request until the end of the leave. The burden of proof rests with the employer. In the case of a wrongful dismissal a special compensation, equal to three months’ salary has to be paid, on top of other possible compensations, which are due in the case of unilateral termination of the individual employment contract.

⁵ Section 6 of Chapter III of the Economic Recovery Act of 22 January 1985 concerning social provisions, *BS* 24 January 1985 and Royal Decree of 23 July 1985, *BS* 10 August 1985.

⁶ Considered equal to employees are the persons – other than on the basis of an employment contract – who carry out work under the authority of another person.

⁷ See Royal Decree of 10 November 2001 concerning the broadening of the scope of section 6 – Granting paid educational leave in the context of permanent education of the employees – of Chapter IV of the Economic Recovery Act of 22 January 1985 concerning social provisions (*BS* 23 November 2001).

The overall organization of paid educational leave within each enterprise is arranged by the works council or, where no works council exists, by agreement with the "**union delegation**" or the employees in general. Its planning takes into account the work-organization requirements of the enterprise as well as the interests and individual circumstances of each employee.

This planning may not impede the right of employees to exercise their right to paid educational leave in travelling to courses, attending courses and, where applicable, returning to the workplace after courses and sitting examinations.

In the event of disagreement, the case is submitted to the employment and labour inspectorate of the Ministry of Employment and Labour, which first attempts to conciliate and, if this fails, issues a decision on the matter.

The Ministry of Employment and Labour reimburses the employer for pay and social security contributions for employees who take paid educational leave, to the following extent: 50 per cent. in the case of vocational training and 100 per cent. in the case of general education.

Outcome

From a *flexicurity*-point of view it is good to see that part-time workers benefit from the scheme too. Another strong point is that the system facilitates the combination of work and training. The fact that the improvement of mobility, especially between industries, seems no topic in the current training policies is, in turn, far from satisfactory.

Statistics of the Federal Public Service of Employment, Labour and Social Dialogue show that almost 2/3 of the participants are blue-collar workers.⁸ Courses organized at the level of the industry are the most successful (for instance the metallurgical industry and the chemical sector report high participation). Leading personnel and supervisors do rarely exercise this right.⁹

Career Break (Collective labour agreement n° 77 bis of 19 December 2001)

⁸ Belgian employees are divided into two main categories, blue-collar and white-collar workers. The criteria used in drawing the line between the two categories of workers derive from the essential characteristics of the work performed: predominantly manual work is blue collar and predominantly intellectual effort is white collar. The distinction between blue-collar and white-collar workers – which is generally regarded as being out-of-date and inappropriate - is (still) the criterion in individual labour law used to justify a number of differences in the reciprocal rights and obligations of the employer and the employee.

⁹ See Report No. 77 of the National Labour Council dd 16 March 2010, www.cnt-nar.be

According to certain conditions, and subject to prior notification, workers are entitled to take a career break or to reduce their commitments. This right may, depending on the choice of the worker, take the form of:

- a work credit (*crédit-temps/tijdskrediet*), consisting in either total suspension of the employment contract, or, and inasmuch as the worker has been employed at at least $\frac{3}{4}$ time by the company in the twelve months preceding said notification to the employer, in a reduction of work commitments to part-time. The duration of the work credit is a maximum of twelve months for the entire career, notwithstanding the application of a sectorial or business collective labour agreement extending this limit to a maximum of 60 months. The exercise of work credit rights is carried out by segments of a minimum of three months. Only those workers who have been employed by the company for at least 12 of the 15 months preceding notification to the employer are entitled to work credit rights;

- a reduction in work commitments of 20%, which may take the form of one day or two half-days of leave per week. This right is exercised by period of minimum six months in duration, with an accumulated maximum of five years over the entire career. This right is only available to those workers having been employed by the company for at least five years at the time of notification to the employer, and having been employed full-time during the last 12 months of said period;

Belgium has a varied collection of instruments and policies concerning training and education, such as premiums, vouchers and individual ‘saving systems’.

Social advancement

Employees under forty have the right to be absent from work during the days they take courses to perfect their intellectual, moral and social education. These courses only qualify insofar as they comply with a number of conditions listed in the Law.¹⁰ They have to be organized by youth organizations or representative employee organizations, possibly in collaboration with the employers. Furthermore, employees can benefit from the system if they take evening or Sunday courses contributing to their professional qualification. In the latter case the permitted number of hours of absence from work is laid down by collective agreement.

¹⁰ Act of 1 July 1963, BS 17 July 1963.

The days of full or partial absence are equated with working days as far as the application of social legislation is concerned.¹¹ However, contrary to the arrangement for paid educational leave there is no wage guarantee. Instead the employee may claim a rather small compensation from the public authorities. In a number of cases this compensation is supplemented by trade union organizations or the employer. There is no protection against dismissal.

The training clause

Principles

An employer often invests in an employee. It also happens that he attracts an employee and takes over the investment in his training. But the employee could be inclined to resign during or soon after he has had an expensive training and start working somewhere else for better pay. To avoid this, parties may conclude an agreement under which part of the cost is recovered. This is the so-called training clause. According to article 22*bis* of the Employment Contract Act the training clause is understood to mean that the employee who takes a course during the implementation of his employment contract at the expense of the employer undertakes to reimburse part of the training cost to the latter if he leaves the company before the end of the agreed period. Certain categories of employees and/or courses may be excluded from the application of the training clause by virtue of a CLA concluded in the responsible joint committee and declared generally binding by the Crown, i.e. the government. So far, no such CLA exists.

Under penalty of nullity the training clause must be laid down in writing for each employee, at the latest at the moment that the course in question starts. It can only be established in the context of an open-ended employment contract. The document must include several details, for instance, (i) the cost of the course or, if it is not possible to determine the full amount, the elements allowing to make an estimate; neither the compensation due to the employee in the context of the implementation of the employment contract nor travel expenses or accommodation can be considered part of the training costs, (ii) the amount to be refundend, i.e. the part of the training cost paid for by the employer which the employee undertakes to pay after completion of the

¹¹ This is important for social security benefits, including holiday pay.

course; this amount must be expressed digressively in terms of the validity of the training clause. The amount is limited.

It is important to note that this regulation only concerns higher employees. The training clause is considered to be non-existent when the indexed annual gross pay does not exceed € 30.535¹² or/and:

- When this does not involve a specific course allowing a person to acquire new professional skills which may also be used outside the company;
- When the training given to the employee follows from a legal or regulatory provision with a view to the position for which the employee was recruited or when the course does not take 80 hours or has a monetary value equal to double the average minimum monthly pay as established for employees of 21 years or older by virtue of a collective agreement concluded by the National Labour Council.

The validity of the training clause may not exceed a period of three years and must be determined taking account of the cost and the duration of the training.

The amount that the employee has to pay back when the duration agreed in the training clause is not complied with may not exceed:

- 80 % of the cost of the course if the employee leaves before 1/3 of the agreed period has passed;
- 50 % of the cost of the course if the employee leaves before 1/3 and at the latest 2/3 of the agreed period;
- 20 % of the cost of the course if the employee leaves after 2/3 of the agreed period has passed. In this case the amount may never exceed 30 % of the employee's annual pay.

The training clause does not take effect when the employment contract is terminated, either during the probationary period or after this period by the employer without just cause or by the employee for just cause.¹³ It does not take effect either when the

¹² Amount for 2011. This is indexed annually.

¹³ Each of the parties may cancel the employment contract without notice on grounds of just cause, irrespective of whether said employment contract was concluded for a fixed term or an indefinite period.

employment contract is terminated in the context of a restructuring operation as referred to in the Generation Pact.

The employee continues to be the owner of his diplomas or certificates and must be in the possession of the original or a copy certified by the training centre, regardless of whether or not the training clause takes effect.

Analysis

This regulation can be considered as an encouragement to invest in expensive and intensive training of, often high-skilled, employees. The employer is assured part coverage of his expenses and the employee remains employable. On the other hand, the employee can't leave the company within a certain amount of time after starting the training. If he goes, he has to pay back the training expenses. This is a major obstacle to job mobility. Another negative aspect is the narrow scope of article 22*bis* of the Employment Contract Act; it governs only open-ended employment contracts.¹⁴ Moreover, it should be pointed out that training clauses are rarely used for training of older employees. On the contrary, business management strongly focuses on the most sought-after employees.

Outplacement

Reorganizing companies employing at least 21 employees are obliged to establish an employment cell. The government, i.e. regional job placement services, is in charge of these employment cells. The cell has to make an offer of outplacement to every employee worker being dismissed in the framework of restructuring and registered with the cell. Every worker being thus dismissed is obliged to register with the employment cell.¹⁵ The services offered by the employment cell aim to optimize the chances to find a new job. They mainly concern logistic and administrative support. So far as these services can be considered as training, the training is rather limited.

Income security is raised to six months' salary, which to Belgium blue-collar workers in particular means social progress. To white-collar workers this is part a negative development because some of the engagement consideration can be lost if he or she is

Just cause is defined as a fault so serious that it renders the continuation of the working relationship immediately and definitively impossible (Article 35 Employment Contract Act).

¹⁴ Open-ended contracts are the standard type of employment contracts used in Belgium. The law favours open-ended contracts over other types of contracts since they encourage employment stability and provide greater protection for employees, particularly in terms of dismissal.

¹⁵ Art. 33 Act of 23 December 2005 and art. 5 and 7 Royal Decree of 9 March 2006.

not cooperating in the job search. Although the particular attention to the persons aged 45 and older can be justified as affirmative action for a deprived group, it begs question of why the system is so restricted that a lot of employees are still excluded, e.g. younger employees and older employees not included in collective redundancy.

To help all 'older' employees who are made redundant outside reorganization or in smaller businesses to find a new job, the right to outplacement has been created. Effective from 1 April 2006 employees aged 45 or above hold a fundamental right to outplacement.¹⁶ This right was strengthened when it transpired that under the old scheme many employers, with the employees' consent, bought out this obligation with a symbolic payment in cash. This has now become a duty as lack of cooperation on the employee's part may result in sanctions in terms of unemployment benefit. As said before, the focus is mainly on the reintegration in the labour market rather than on retraining the unemployed. This option could imply 'downward mobility'. Such mobility might endanger the employees' option security, i.e. having some degree of choice when seeking a job, leaving fired with little room to find a job that match their qualifications with regards to tasks, pay and status. Overall, this can reduce their general level of qualifications and employability.

Article 30 of the Act of 23 December 2005 on the Pact between Generations provides that the broad training efforts in each sector shall not be less than 1,9 % of the total wage bill, under penalty of higher employers' contributions destined for the financing of the system of paid educational leave. This article consecrates the extension of training efforts to all groups of workers. Article 30 does not guarantee the labour market relevance of education and training. However the implementation at sector-level shows that this relevance is indeed secured. For instance the arrangements in joint committees 111 en 119 focus on the development of skills and competences, primarily in the interest of job security but also to increase job opportunities.

Sector-level

Labour law arrangements which facilitate participation in training are scattered across many laws, decrees, orders, royal decrees and collective labour agreements. A recent

¹⁶ Art. 3 CLA No 82 of 10 July 2002.

study sets out a non-exhaustive list of 33 sources. Collective labour agreements at sectoral level were not counted.¹⁷

At industry level various instruments have been developed to assist companies in establishing training plans. For instance, companies of joint committee 111(metal) and 124 (construction) must draw up training plans for their employees.

In joint committee 317 (caretaking services) blue-collar workers have a training credit, for instance 40 hours every two year. White-collar workers are entitled to four training days during a period of two years. In many cases this would better have been eg 12 days training in three years, as sometimes people are working on long term projects, and training that is too short does not reach sufficient depths.

¹⁷ See M. VAN PUTTEN et al., *Onderzoek en evaluatie van het effect van het indienen van het concept "flexicurity" zoals bepaald door de Europese raad in het Belgisch arbeidsrecht*, 2010, 120-122 (<http://www.tilburguniversity.edu/nl/onderzoek/instituten-en-researchgroepen/reflect/eindrapportflexicurity.pdf>)

IV. STRENGTHS AND WEAKNESSES OF THE BELGIAN MODEL

In general

Belgian labour law gives considerable thought to participation in training of employees. In this regard it is very *flexicure*. However after an in-depth analysis one has to adopt a more nuanced position.

The strengths and weaknesses can be summarised as follows:

Strengths	Weaknesses
increasing attention to training of both people with low skill levels and insiders ¹⁸	facilitating measures are fragmented
strong focus on the combination of work and training	limited scope of training clause / atypical employees are excluded
equal opportunities policies in training	limited control of effective participation in training programs
adjusted training programs at industry level	no strong safety net in case of insufficient training effort at industry level
recognition and validation of informal learning	

The Danish flexicurity model is often referred to as the ‘golden triangle’.¹⁹ By analogy, one can refer to the Belgian flexicurity model as the ‘golden jungle’. The deluge of schemes is indeed an important weakness of the Belgian system. Finally there is no particular consideration for leading supervisory personnel. All these weaknesses could

¹⁸ Insiders are employees with open-ended employment contracts, long job tenure and full rights under labour law.

¹⁹ The term ‘golden triangle’ underlines the successful combination of three core elements in Danish labour market regulation: an easy access to hiring and firing, relative generous unemployment benefits and active labour market policies. The three elements combine in a trade off which produces advantages for both employers and employees. It is relatively easy for employees to find a job again if fired and employers have access to a relevant and continuously updated workforce.

be addressed, by means of e.g. simplified and generalised access to training programs and the definition of a safety net based on best practices at sector-level.

It is worth while noting that prolonging working life, *i.e.* keeping older employees longer at work, has been, and will remain, a permanent concern of the Belgian government. One of the actions that have been taken in 2010 is to discourage bridge pension schemes. Since 1 April 2010, higher employers' contributions must be paid on the payments made under these schemes. Another measure is the granting of a bonus to older workers who want to switch to less strenuous work.²⁰ In respect of training, there has been no proper attempt to improve employability through measures to improve their skills. Older employees, in particular 'higher' white-collar workers, are not regarded as a risk group. On the other hand, employers are reluctant to invest in training of these employees. It is beyond the scope of this paper to propose detailed reforms. Yet it seems clear that is to specific reforms in this area that the Belgian legislator must turn his mind, if labour law really wants to achieve the osmosis not only of 'flexibility' and 'security' but also of all other objectives and priorities.

Focusing on managers

Training as is provided by industry, is mostly limited to in depth training for specific aspects of the job. Most staff members and managers have already a very broad education, and many of them have more than one university degree. So general training is not needed. To the contrary: in many cases people are over qualified for most jobs in the company, and lesser trained people could do the same jobs as well. As a result, additional training will not help them to improve their mobility.

This doesn't mean there are no problems. A serious problem is the flattening of the organization, and as a result the demotion of many people.

Training is mostly reserved for younger staff members and managers. Once people reach a certain age, experience and accumulated training are sufficient to allow them to tackle many different jobs.

An exception (at this moment) are ICT related jobs, as there is a scarcity of ICT trained people at this moment. Trainings given are up to 16 weeks for newly recruited people. The industry deducts this training over a period of about 5 years. The training costs are especially the wages of the people trained.

²⁰ Royal Decree of 19 April 2010.

A more essential problem for people is the seeming inability of people to organize their own mobility. People seem to be unaware of the way they are locked in, in a function or a department that is becoming obsolete. Although they have the necessary skills and competences to switch jobs, they just don't do it. A few reasons here seem to be

- People cannot take free from their jobs for a prolonged period of time. If people take a sabbatical year, their function is gone, and they need to restart building up their career.
- People often work towards a burnout : as their job is becoming more and more enclosing, they often seem to be able to put the importance of certain aspects of their job in perspective, and start a closed loop of more and more work with less and less incremental results, leading to burnout.

As a result, the observation is that it is much more important for people to learn to look at their career and to be open to the need of training, than to make the training available. If needed, staff members are quite capable of absorbing the training needed, but mostly they don't see the need.

Regarding to integrated services

Although for managers training is no special factor in obtaining job security, this is not the case for the labor market as a whole. Belgium even has a problem of a lot of unskilled workers versus a lot of vacancies for trained persons. The VDAB / FORUM / ACTIRIS are working on this problem and are measuring the skills needed by the market, are testing people for their abilities, consulting with companies and training people corresponding to the required skills. However, those activities are in reality limited to workers and employees. Staff people and managers, although they could work with the VDAB / FORUM / ACTIRIS, are not reached.

The problem seems to be one of market segmentation and access.

Market segmentation: staff members and managers suppose that the aforementioned organizations are too low-level oriented to help them find jobs or to help them to re-orient their career. Therefore they are consulting private companies. As mentioned before, the FEDERGON federation groups most of those companies, and provides a quality label.

It seems that staff & managers want to have separate channels and services to be used by them.

WHAT IS MISSING?

Findings

Several weak points have been identified in the Belgian situation.

The most important problem seems to be the lack of culture of self-management. People seem to have the habit of thinking that someone is going to take care of them. As an example: : people are not soliciting for another job, nor or they training for it, but if the job is offered, they just go for it and train themselves.

Therefore it seems to be necessary to train people from an early age on into looking after themselves. At this moment projects are set up to tell people from 12-14 years old to look at their own career as a project, and to learn to assess their own strengths and weaknesses.

A related problem is that at this moment in Belgium all kinds of assistance are viewed as personal weaknesses. Psychological assistance, career counseling, skills assessment : all those have a very bad reputation and people are not turning to them when they should. It is much easier for many people to go for an additional master than to check in for a career counseling session.

Companies are aware of this problem. Their reaction is that they offer mobility inside the company, but people have to ask for it themselves. They are not going to actively scout for people that should change jobs.

This seems to be different in the very big companies where the management level has a personal coach. Every coach follows 100 to 200 persons, checks their careers and offers counseling. However, end of the road staff and management people are responsible for their own career. This can be problematic for people who have a burnout or depression. As the general attitude seems to be that people have to sort this out for themselves, they often break down, and only look for help once the situation is really bad. In many cases people only go to career assessment centers as part of a medical rehabilitation program.

Some conclusions

If we look at the service of assessing the skills of a person, checking the market needs for certain skills and advising the individual and the company about needed training and career counseling, then :

- Staff members and managers need indeed a specialized service. They seem not to blend in with the rest of employees and are not using the existing governmental services;
- Training is not an essential point here. People are sufficiently trained to switch jobs, and the rest is on the job training. Training is only a minor factor in the flexicurity-concept;
- Personal attitude is of utmost importance. People must be aware that everybody expects them to consider their own career as a project, and that they are not competent to do it by themselves.
- The lack of the right personal attitude, and the lack of interest for its own career, results not only in less flexibility but also seems to be part of the burnout problem, and partly responsible for the observation that people keep on working in ‘lost’ jobs, in divisions that are clearly going to be shut down, without preparing for the next job
- For people that are aware of the fact that their own career must be planned, a single point of access to the market of career planners, skill assessment centers etc. would offer a large surplus value. That single point of contact should help people find the right company for career assessment, training etc.
- No single company can be flexible enough to capture all the information needed to be an effective counselor over the whole spectrum of jobs carried out by managers and higher staff people. Their available skills and the skills needed are too diverse to be absorbed by a single entity. The situation as currently exists in Belgium seems to be satisfactory, although a single point of contact is missing.

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