

# **EALCJ**

## **“The Belgian legal system for labour conflicts”**

### **BELGIUM**

**National reporter : Alain SIMON**

**Counsellor Labour Court of Appeal, Liège**

#### 1. The Belgian legal system

Belgian legal proceedings are based on a system of civil law.

Belgian Courts are not bound by the principle of precedent.

Legal proceedings are governed by the Judicial Code, which was adopted by the Law of 10 October 1967.

#### 2. A specialised jurisdiction for labour conflicts in Belgium

Before the seventies, social law litigations were dealt with by several jurisdictions.

Nowadays, there is a specialised jurisdiction for labour conflicts.

The reasoning behind the creation of the labour jurisdiction in november 1970, was the unity of judicial litigations in labour and social security, as parts of a same discipline making a coherent whole.

#### 3. Competence of labour courts

Labour courts have competence for individual disputes, social assistance and security disputes, especially with individual contracts of employment, workers' contractual responsibilities, obligations of the parties as a result of the termination of a contract, disputes of an individual nature relating to collective agreements, allowances payable in the event of industrial accidents or occupational illnesses, social security matters for both employees and the self-employed, works councils, workplace health and safety committees, administrative fines and sanctions, collective remittal of debts, social assistance matters, and disability benefits.

This competence is exclusive.

The jurisdiction does not, in general, extend to the settlement of collective industrial disputes.

#### 4. Particular procedure

For individual contracts of employment, there is a preliminary procedure of conciliation to be followed before the first instance labour court can be accessed.

There is a particular procedure ensuring access to the labour court, by means of a contradictory petition.

The various parties can be represented before the labour courts by a lawyer, a spouse or parent or, in the case of employed or self-employed workers, but not employers, by a delegate of a representative organisation

#### 5. Composition of labour courts

Labour courts are composed of labour court judges and of lay judges.

The former are professional magistrates with legal qualifications, who preside over the courts' hearings.

The latter are non-professional judges who assist the professional judge, drawn from representatives of employers, employees and the self-employed.

Lay judges are appointed by the King on the recommendation of the minister responsible for labour affairs or for the middle classes.

The composition of chambers is fixed according to the nature of cases.

Exceptionally, labour court is composed of only one professional judge when hearing a dispute concerning an agreement on financial and administrative arrangements between health insurers and healthcare providers or concerning the collective remittal of debts.

Moreover, there is a labour public prosecutor's office attached to each labour court in first instance and in appeal.

His role is to give oral or written opinions .

For some cases brought before the labour court, especially for social security matters, he is obliged to do so by law, while for others, especially for individual contracts of employment, no such obligation exists.

#### 6. A specialised jurisdiction for labour conflicts in first instance and appeal

The first-instance jurisdiction is seated in the labour courts.

There is one in each judicial district.

In the case of appeal there is also a labour court, the labour court of appeal.

There are five labour courts of appeal, in Brussels, Antwerp, Ghent, Liège and Mons.

There is no labour court at the highest level, but a social chamber of the Court of cassation, which is the only one for the whole kingdom and whose five counsellors must have practised at least during five years in a labour court.

### 7. Final appreciation

The dominant opinion of the working of the labour courts is favourable since their creation.

They insure proximity to parties, welcome, celerity and judges' expertise due to their specialization.