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European Monitoring Centre on Change

## Belgium: Wage guarantee in case of insolvency

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Belgium

Phase:

Management

Type:

Wage guarantee in case of insolvency

Last modified: 10 December, 2021

Native name:	Loi du 28 juin 1966 relative à l'indemnisation des travailleurs licenciés en cas de fermeture d'entreprises
English name:	Law of 28 June 1966 regarding the indemnification of employees that have been laid off as a consequence of a closing of an undertaking

### Article

18-55

### Description

In case of collective layoffs (at least 10 employees in companies with 20-99 employees, at least 10% in firms with 100-299 employees or at least 30 workers in companies with 300 or more staff) as a result of bankruptcy or insolvency of a company, workers receive a closing-down indemnity paid by a closing fund managed by the public employment services. Employees do not need to apply to such funds. This automatically applies to workers employed in companies active in sectors where a collective agreement has been signed.

In order to receive guarantees in case of employer's insolvency, the employment contract must be terminated 12 months before to 13 months after the closing.

There are no exclusions of part-time or fixed-term workers. The fund will intervene in the payment of wages, indemnities and benefits that are due. There is a maximum per employee (with exception of additional payments in case of early retirement), corresponding to about €22,000 yearly or about €1,900 monthly for outstanding salary, holiday pay, severance indemnity and the indemnities and benefits that are due to the employee.

There are no requirements in terms of duration of the employment contract for the worker to be eligible for the wage guarantee in case of insolvency.

The fund is financed through social security contributions which must be paid by all employers in Belgium, levied on the gross salary of employees.

Payment is realised also if the employer has not contributed (something that he/she would have to do purposefully, since the contribution is obligatory).

### Comments

In 2020, the FFE paid €216 million of contractual compensation to 22,244 workers. In the previous years, the number of beneficiaries was the following:

- 2020: 22,244
- 2019: 20,973
- 2018: 23,294
- 2017: 23,850
- 2016: 27,357.
- 2015: 30,989
- 2014: 32,271
- 2013: 30,538
- 2012: 27,535
- 2011: 27,931
- 2010: 23,875

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According to a 2019 evaluation report published by the Court des Comptes, in 2017, nearly 3/4 of payments were made more than 8 months after bankruptcy. The average time between the bankruptcy declaration and the payment of compensation (excluding closure compensation) was 311 days, or 10.2 months. The Court des Comptes has invited the FFE to strive to reduce this time; although recognising that technical timelines to ascertain that the worker has not been re-employed need to be respected. The report also found that not all workers are aware of their rights and that awareness raising measure should be taken to increase the number of application by potential beneficiaries.

In its 2005 annual report, the fund stated that it paid on average within a period of 12 months after the payment requests had been filed. Between 2006 and 2009, about 16,000 applications were registered, and claims of about 72,000 workers were satisfied.

### Cost covered by

Companies

### Involved actors other than national government

Public employment service

Other

### Involvement others

Fund

### Thresholds





Company size by number of employees:

20

Number of affected employees:

10

### Sources

-  [Wet betreffende de sluiting van de ondernemingen](#)
-  [Restructering in Belgium](#)
-  [Fonds d'indemnisation des travailleurs](#)
-  [Court des Comptes \(2019\) rapports sur les Fonds de fermeture des entreprises](#)

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