

EMCC

European Monitoring Centre on Change

Belgium: Staff information and consultation on business transfers

[Go to list page](#)

 Belgium

Phase:

Anticipation

Type: Staff information and consultation on business transfers

 Last modified: 18 June, 2021

Native name:

Convention collective de travail n° 9 du 9 mars 1972 coordonnant les accords nationaux et les conventions collectives de travail relatifs aux conseils d'entreprise conclus au sein du Conseil national du Travail/Collectieve arbeidsovereenkomst n° 9 van 9 maart 1972 houdende ordening van de in de Nationale Arbeidsraad gesloten nationale akkoorden en collectieve arbeidsovereenkomsten betreffende de ondernemingsraden

English name:

National and intersectoral Collective Agreement n°9 of 9 March 1972 coordinating national agreements and cross-sectoral collective agreements related to works councils, concluded in the National Work Council

Article

4-10 and 12

Description

The works council needs to be informed and consulted on management intentions likely to lead to substantial changes in the work organisation or in the contractual relations as well as in the economic and social context of the firm. While there are no specific regulations as regards business transfers, such are implicitly covered by the regulation.

Whereas information related to the employment structure, its evolution and forecast are provided on an annual basis and followed-up on a quarterly basis, new management policies which introduce changes in work organisation or in contractual relations are discussed on an ad-hoc basis. In this case, the law does not define any timeline, except that unions' representatives have to be informed before the implementation of any measures or decisions. Concerning the information and consultation procedure for business transfer, the employer provides information to the works council as soon as there is an intention to proceed to it. Unions' representatives have to be the first ones to be informed about the intention to proceed to a business transfer. As soon as the unions are informed, the information and consultation procedure starts. This information and consultation procedure has no prescribed limit in time with regards to when it should be concluded.

During this procedure, unions' representatives have the possibility to ask questions, make suggestions or comments to the business transfer plan. The unions have the possibility to contest the procedure to the [Federal Public Service Employment, Labour and Social Dialogue](#) in case of irregularities.

Comments

Several modifications or additions were made in order to better comply with the reality of the industrial relations. For instance, the cross-sector agreement n°15 (royal decree of 5 September 1974) aims at considering the case of companies which have set up plans on dealing with financial and solvency problems. Another example is the cross-sector agreement n° 37 (royal decree of 9 December 1981) which defines more precisely the information about employment issues that the management has to provide to the works council.

If no works council exists (enterprises with fewer than 100 employees), the employer has to follow the same procedure with the trade unions' delegation, if any exists. Employees have to be directly informed and consulted as well.

Moreover, several collective agreements (n°32 of 7 June 1985 and n°102 of 5 October 2011) and the law on company's continuity (31 January 2009) have been set for the particular cases of business transfers. These regulations set, among others, the framework to safeguard employees' rights during business transfer.

Cost covered by

Not applicable

Involved actors other than national government

Trade union
Works council

Thresholds

No, applicable in all circumstances

Sources

-  [Federal Public Service Employment, Labour and Social Dialogue](#)
-  [Restructuring in Belgium](#)
-  [EMCC actors in restructuring](#)
-  [Collective agreement n°9, 32 and 102 - National Labour Council](#)
-  [Federal Public Service Employment, Labour and Social Dialogue](#)
-  [Loi relative à la continuité des entreprises](#)
-  Alpha Consulting, 2003, Anticipating & Managing Change - A dynamic approach to the social aspects of corporate restructuring, Brussels, European Commission

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