

National Report Belgium



UNIPSO

François DAUE



[PROJECT PESSIS: PROMOTING EMPLOYERS' SOCIAL SERVICES ORGANISATIONS IN SOCIAL DIALOGUE]



Supported by DG Employment, Social Affairs and Inclusion
Sole responsibility for the contents of this publication lies
with the partners of PESSIS. The European Commission is not
responsible for any use that may be made of the information
contained therein.

European Project PESSIS
Promoting Employers' Social Services Organisations in
Social Dialogue

National Report - Belgium

Table of contents

1. Introduction	4
2. Statistical profile of the social profit sector	6
2.1. The social profit sector in number of jobs	6
2.2. The social profit sector in number of institutions	8
2.3. The value added of the sector.....	9
2.4. The number of the jobs represented within joint committees	10
2.5. The number of employers by joint committee	11
3. Who's who in social dialogue?	12
3.1. The workers' organizations.....	12
3.2. The employers' organizations	13
3.3. The sectoral employers' representation	14
3.4. the inter-professional representation of employers	16
3.5. The position of inter-professional in social dialogue	18
4. The organization of social dialogue	20
4.1. The private 'not-for-profit' sector	20
Social consultation at cross-sector level	20
The National Labour Council	20

The Central Economic Council	21
The High Council for Health and Safety in the Workplace	21
'Inter-professional' agreements	22
The economic and social Councils.....	22
Social consultation at sector level	23
The Joint Committees	23
Joint Committees of the social profit sector	24
Social funds	24
Social consultation at corporate business level.....	25
The Works Council	26
The Committee for Health and Safety in the Workplace.....	26
The trade union delegation.....	27
Instruments of social consultation/conciliation : collective bargaining agreements.....	27
Real sources of law	27
Content and duration.....	28
4.2. The public sector.....	29
Principles of social dialogue	29
Spheres of social dialogue	30
Actors of social dialogue in the public sector : place of employers' organizations.....	31
4.3. 'Tripartite' employer/worker dialogue in social profit sector	32
5. The key questions in social dialogue	33
5.1. Specificities of employer/worker relations in the social profit sector .	33

The volume and type of employment.....	33
The role of public authorities	34
The nature of social dialogue	34
The public sector	35
5.2. The evolution of social dialogue over the past decade	35
5.3. Working and decision-making procedures	36
5.4. The main problems in social dialogue	37
Institutional reform	37
Multiplicity of consultation venues	37
The nature of social dialogue	38
5.5. Vision of the future and message for Europe.....	38
6. Conclusions	40
Annex	41
Annex 1 : list of partners.....	41
Annex 2 : list of main sectoral employers' federations	42
Annex 3 : list of joint committees and sub-committees covering the social profit sector	44
Bibliography	45

1. Introduction

This report has been compiled within the scope of the European project PESSIS (Promoting employers' social services organizations in social dialogue). The main aim of this project is to provide a better understanding of how social dialogue is organized and structured in the social profit sector in Europe.

PESSIS is being coordinated by the European Association of Service Providers with Disabilities (EASPD) in partnership with eight European organizations and eleven national partners including, for Belgium, UNIPSO (Union des Entreprises à Profit Social)¹. Under this project, each partner is responsible for submitting a report presenting the situation in its own country, in this case Belgium.

The eleven national reports together with the European synthesis report will contribute to developing the prospect of installing a European level social dialogue where social profit sector employers will hold a proper place.

By way of an introduction to this national report, it seems important to explain a few of the main methodological principles having guided our research :

1. First, the definition of 'social profit sector' is that used in Belgium by UNIPSO. The social profit or 'non-market' sector groups together "all organizations functioning on a 'not-for-profit' or 'non-market' basis with non-market resources and providing goods or services of a collective or semi-collective nature mainly in the areas of education, health, social action and culture". This is a relatively broad notion from the outset but one that becomes more restrictive owing to the demarcation of sectors. A more detailed explanation is contained in the UNIPSO publication entitled "*Dix années d'évolution du secteur à profit social*"².
2. The 'social dialogue' concept is to be understood as the dialogue between employer(s) and worker(s). We shall see that in the social profit sector, this dialogue can take on several forms depending on the level it is conducted and whether it concerns the private or the public sector. Moreover, this dialogue within the social profit sector sometimes leaves room for a third interlocutor : public authorities.

¹ A list of the partners is available in the appendix to this report (annex 1)

² "Dix années d'évolution du secteur à profit social", (Ten years development of the social profit sector), economic study by UNIPSO, 2009 via : http://www.ufenm.be/IMG/pdf/10_annees_d_evolution_du_secteur_a_profit_social.pdf

3. Given the limited timeframe set for submission of this report and the need for succinctness, our focus was on :
 - a. providing the clearest possible description of a relatively complex system of social dialogue and an understanding of how it came into being (see chapters 3 and 4 – Who's who and Organization of social dialogue)
 - b. adopting the methodology of the Focus Group to address the key issues of social dialogue taking on board the input and feedback of its participants (as fully reflected in chapter 5), while pointing out that the synthesis of these considerations and exchanges does not necessarily mirror the views of UNIPSO or all of its members and that they are not bound by it.

2. Statistical profile of the social profit sector

This chapter aims at setting the statistical profile of the social profit sector. It is based on the most recent available data and gives an overview of the sector in terms of its number of jobs (employment), of institutions and of added value within the Belgian economy. As for the social dialogue aspect, the representation of the social profit sector within the joint committees is also highlighted, in particular at employment level.

The statistics presented in chapter 2 are taken from the 'decentralized' statistics of the ONSS and the ONSSAPL³. This means that they are based not on the enterprise considered as a homogeneous entity, but on all of the 'places of business' (places of work) it has. Use of the ONSS and ONSSAPL data implies that the statistics cover only salaried employment or, more precisely, all of the employers and workers subject to social security contributions. Volunteers and institutions that do not have workers liable for payment of social security contributions are therefore not included in the statistics. Moreover, employment is divided up by job.

2.1. The social profit sector in number of jobs

The social profit sector in Belgium, according to the latest statistics available, accounts for 720,000 jobs excluding education (376,982 jobs). This represents 17 % of total salaried employment estimated at 3,816,435 jobs. These figures concern both the private and public branches of the non-market sector.

The five main sectors of activity are :

1. Hospital activities	186,663 jobs
2. Rest/nursing homes	97,970 jobs
3. Home help and carers	49,451 jobs
4. Enterprises employing the disabled	38,431 jobs
5. Child care	32,778 jobs

With 394,665 jobs, these five sectors of activity account for nearly 55% of total employment.

³ ONSS = Office national de la sécurité sociale, ONSSAPL = Office national de la sécurité sociale des administrations provinciales et locales (secteur public)

Job (NACE-BEL)	Brussels	Flanders	Wallonia	Belgium
Health care:	32,757	122,178	70,964	225,899
Hospital activities (86.1)	27,710	100,048	58,905	186,663
Activities of doctors and dentists (86.2)	3,438	10,413	4,789	18,640
Other activities for human health (86.9)	1,609	11,717	7,270	20,596
Activities of practitioners of the art of nursing (86.906)	298	7,808	4,753	12,859
Social services (87 and 88) :	32,423	202,526	95,531	330,480
<i>With accommodation(87) :</i>	12,913	92,542	51,566	157,021
Institutions accommodation for the elderly (87.101, 87.301and 87.302)	8,734	57,630	31,606	97,970
Residential care activities for adults with a disability (87.202 and 87.304)	703	14,670	8,232	23,605
Residential care activities for under-age children with a disability (87.201 and 87.303)	941	9,457	5,579	15,977
Welfare services for young people with accommodation (87.901)	1,292	5,797	3,850	10,939
Other social services with accommodation (87.109, 87.203 - 87.205, 87.209, 87.309, 87.902 and 87.909)	1,243	4,988	2,299	8,530
<i>Without accommodation (88) :</i>	19,510	109,984	43,965	173,459
Activities of domestic help, except home care- givers (88.101) Activities of day and service centres for the aged (88.102)	2,905	34,700	11,846	49,451
Activities of enterprises employing individuals with physical or mental disabilities (88.995)	2,354	26,761	9,316	38,431
Child care and welfare services (88.911, 88.912 and 88.919)	4,165	19,267	9,346	32,778
Other social services without accommodation (88.103, 88.104, 88.109, 88.991 - 88.994, 88.996 and 88.999)	10,086	29,256	13,457	52,799
Culture, leisure and sport :	31,617	47,472	23,986	103,075
Training for adults (85.207, 85.591 - 85.593)	8,771	13,143	5,886	27,800
Activities of community groups and associations n.c.a. (94.99)	8,963	6,962	4,252	20,177
Sport : facilities, clubs (excl. fitness centres), leagues and federations (93.11, 93.12, 93.19)	2,167	9,297	4,262	15,726
Broadcasting of radio and television programmes (60.10 et 60.20)	5,191	1,239	1,282	7,712
Running of theatres, concert halls and cultural centres (90.04)	1,263	3,469	1,729	6,461
Performing arts, artistic creation and activities supporting live entertainment (90.01, 90.021, 90.023, 90.029 and 90.03)	2,157	2,807	1,604	6,568
Libraries and archives (91.01)	858	3,739	1,126	5,723
Museums, historical monuments (91.02 and 91.03)	876	2,463	1,753	5,092
Botanical and zoological gardens, nature reserves, theme and amusement parks (91.04, 93.212 and 93.292)	143	2,779	1,334	4,256
Making and distribution of films for cinema and television (59.111 - 59.113, 59.13 and 59.14)	1,119	1,124	666	2,909
Youth hostels (55.201)	109	450	92	651

Intermediate total	96,797	372,176	190,481	659,454
Education (85), except training for adults (see above)	52,680	208,647	119,620	380,947
Mutual insurances (84.302)	3,992	7,168	4,760	15,920
Activities of associative organizations (94.1, 94.2, 94.91 and 94.92) : employers', trade union, religious and political organizations	9,990	10,251	8,325	28,566
Activities of households as employers of domestic staff (97)	535	2,253	486	3,274
Broad total	163,994	600,495	323,672	1,088,161

Source : 4th quarter 2010, Decentralized statistics ONSS (incl. ONSS APL)

2.2. The social profit sector in number of institutions

These jobs are spread throughout 36,055 institutions, excluding education (12,234 institutions), as detailed in the table below :

Establishments (NACE-BEL)	Brussels	Flanders	Wallonia	Belgium
Health care :	911	4.348	2.307	7.566
Hospital activities (86.1)	59	223	153	435
Activities of doctors and dentists (86.2)	727	3.426	1.706	5.859
Other activities for human health (86.9)	125	699	448	1.272
Activities of practitioners of the art of nursing (86.906)	40	370	171	581
Social services (87 and 88) :	1,392	4,621	3,283	9,296
<i>With accommodation(87) :</i>	343	1,617	1,279	3,239
Institutions accommodation for the elderly (87.101, 87.301and 87.302)	183	811	673	1,667
Residential care activities for adults with a disability (87.202 and 87.304)	33	233	191	457
Residential care activities for under-age children with a disability (87.201 and 87.303)	12	74	97	183
Welfare services for young people with accommodation (87.901)	40	231	169	440
Other social services with accommodation (87.109, 87.203 - 87.205, 87.209, 87.309, 87.902 and 87.909)	75	268	149	492
<i>Without accommodation (88) :</i>	1,049	3,004	2,004	6,057
Activities of domestic help, except home care- givers (88.101) Activities of day and service centres for the aged (88.102)	42	341	172	555
Activities of enterprises employing individuals with physical or mental disabilities (88.995)	27	276	120	423
Child care and welfare services (88.911, 88.912 and 88.919)	349	1,339	660	2,348
Other social services without accommodation (88.103, 88.104, 88.109, 88.991 - 88.994, 88.996 and 88.999)	631	1,048	1,052	2,731
Culture, leisure and sport :	2,494	4,823	3,249	10,566
Training for adults (85.207, 85.591 - 85.593)	276	533	459	1,268

Activities of community groups and associations n.c.a. (94.99)	1,163	1,193	870	3,226
Sport: facilities, clubs (excl. fitness centres), leagues and federations (93.11, 93.12, 93.19)	214	1,259	774	2,247
Broadcasting of radio and television programmes (60.10 et 60.20)	43	51	47	141
Running of theatres, concert halls and cultural centres (90.04)	122	308	210	640
Performing arts, artistic creation and activities supporting live entertainment (90.01, 90.021, 90.023, 90.029 and 90.03)	339	488	292	1,119
Libraries and archives (91.01)	91	410	162	663
Museums, historical monuments (91.02 and 91.03)	80	174	199	453
Botanical and zoological gardens, nature reserves, theme and amusement parks (91.04, 93.212 and 93.292)	15	244	131	390
Making and distribution of films for cinema and television (59.111 - 59.113, 59.13 and 59.14)	145	111	91	347
Youth hostels (55.201)	6	52	14	72
Intermediate total	4,797	13,792	8,839	27,428
Education (85), except training for adults (see above)	1,355	6,994	3,885	12,234
Mutual insurances (84.302)	107	571	322	1,000
Activities of associative organizations (94.1, 94.2, 94.91 and 94.92): employers', trade union, religious and political organizations	1,271	1,785	2,185	5,241
Activities of households as employers of domestic staff (97)	377	1,657	352	2,386
Broad total	7,907	24,799	15,583	48,289

Source : 4th quarter 2010, Decentralized statistics ONSS (incl. ONSS APL)

2.3. The value added of the sector

Social profit activities generate an added value allowing to quantify the wealth produced by the sector. Added value is an economic concept allowing to measure the value created by an economic player.

The value added calculation method adopted by the National Accounts Institute (ICN) is to calculate costs (work and capital) generated by production. In the social profit sector, value added is calculated on the basis of the wages bill, as salaries represent almost total production costs.

According to regional accounts published by the ICN, in 2006, the value added of the non-market sector represented around 15% of the country's total value added. In Wallonia, it accounts for over 19%.

It is to be noted that this system of measurement is partly responsible for underestimating the sector's importance, as it does not take the contribution of volunteering into account. Yet the latter is of major importance and very frequent within the social profit sector.

Value added 2010 (in millions of euros)	Brussels	Flanders	Wallonia	Belgium
Education	3,483.6	11,657.4	6,939.1	22,080.1
Activities for human health	2,020.9	9,154.3	4,956.4	16,131.6
Medical-social and social accommodation. Social action without accommodation	1,036.7	4,543.7	2,283.2	7,863.6
Arts, performing arts and recreational activities	525.3	1,055.1	521.6	2,102.0
Total Non-Market	7,066.50	26,410.50	14,700.30	48,177.30
Total Economy	60,221.5	180,553.2	74,835.7	315,823.7
% of total economy	11.73 %	14.63 %	19.64 %	15.25 %

Source : ICN - 2010

2.4. The number of the jobs represented within joint committees

Nearly 500,000 jobs are represented within various joint committees for the 'non-market' sector. To be noted is the particularly high growth during the 5-year period 2006 to 2011, from 394,090 jobs to 488,500 jobs, i.e. a total growth of 24 % and annual growth of nearly 5 %. This accounts for 13.5 % of the number of jobs represented within joint committees.

	2006/3	2007/3	2008/3	2009/3	2010/3	2011/3
Agriculture, hunting, forestry and fishing	32,529	30,912	32,160	34,941	37,032	32,300
Industries, gas and electricity	670,562	670,284	674,318	640,944	629,773	631,900
Building & construction	159,225	163,842	165,328	161,717	162,464	163,900
Distribution, transport and logistics	396,845	407,214	415,003	411,465	414,747	421,800
Services to businesses and individuals	220,752	236,981	286,043	287,259	327,030	343,500
Financial sector	117,206	117,431	116,381	113,767	112,768	113,000
Hotels, restaurants, cafés, (Horeca), sport, leisure, media	140,463	142,012	143,661	142,045	144,754	144,500
(Social) 'non-market' sector	394,090	407,307	430,723	450,466	470,559	488,500

Miscellaneous sectors	505,208	526,588	516,354	487,884	477,812	481,400
No joint committees	690,186	690,337	689,042	696,334	696,461	688,200
TOTAL	3,327,066	3,392,908	3,469,013	3,426,822	3,473,400	3,509,000

Source : ONSS

2.5. The number of employers by joint committee

In 2011, for the overall non-market sector, there are 22,959 employers spread throughout the various joint committees. The highest number of different employers is found in the health establishments and services sector (8,083 employers) and the socio-cultural sector (5,596 employers).

Joint Committees	Number of employers
JC 152 - JC for subsidized institutions in charge of independent education for manual/blue-collar workers	1,597
JC 225 - JC for employees of grant-aided independent educational establishments	854
JC 318 - JC for home helps and elder care services	105
JC 319 - JC for education and accommodation establishments and services	1,300
JC 327 - JC for enterprises employing disabled persons and 'sheltered' workshops for the disabled	230
JC 329 - JC for the socio-cultural sector	5,596
JC 330 - JC for health establishments and services	8,083
JC 331 - JC for the Flemish social welfare and health care sector	696
JC 332 - JC for the French- and German-speaking and bi-community sector of social welfare and health care	843
JC 337 - JC for the non-market sector (set up on 8 March 2008) : residuary JC regrouping the organizations of the non-market sector which are not part of another joint committee with specific official attributions, i.e. in particular the <i>mutualités</i> (mutual aid/insurance funds).	2,922
TOTAL	22,959

Source : ONSS 2011

3. Who's who in 'social dialogue'?

Belgium's system of social dialogue, or 'around the table' discussions between employers and workers is seen and recognized as a model in Europe. Such face to face meetings allow representatives of both sides to address issues of concern and to reach agreements in matters of labour law.

Before explaining in the following chapter the organization and operation of this social dialogue and its specificities for the social profit sector, it is first of all necessary to present its main players and the steady progress that allowed social profit sector employers to get organized and take up their place within the social dialogue.

Social dialogue players, called 'social partners', represent the employers and the workers. They are both organized in their own way, but to be able to play a role in the collective relations, they should be considered as 'representative'.

This representativeness is defined by law, but is also founded on the mutual recognition of representative organizations in relation to one another. Such mutual recognition effectively guarantees the accountability of the interlocutors and their legitimacy for negotiating on behalf of each organization.

The legal criteria⁴ in this regard differ somewhat for workers' organizations and for employers' organizations.

3.1. The workers' organizations

Workers are represented by their trade union or union organizations. In order to be representative and legally recognized as such, union organizations must :

- > be constituted at national level
- > have at least 50,000 members
- > be represented on the National Labour Council and the Central Economic Council

⁴ Law of 5 December 1968 on collective bargaining agreements and joint committees (Belgian Official Journal 'Moniteur belge' of 15 January 1969)

In Belgium, there are three organizations meeting these prerequisites : the *Centrale Générale des Syndicats Libéraux de Belgique* (CGSLB), the *Confédération des syndicats chrétiens* (CSC), and the *Fédération Générale du Travail de Belgique* (FGTB).

The CSC and FGTB are made up of 'core' organizations set up, firstly, by sector of activity and, secondly, according to the status of the workers. Thus, employees (salaried/white-collar workers) are represented by the CNE within the CSC and by SETCa within the FGTB. Public services workers are represented by CSC-Services publics within the CSC and by the CGSP within the FGTB. Manual/blue-collar workers are represented by various union organizations according to their trade or industrial sector e.g. building/construction, metallurgy, and so on. The CSC and FGTB core organizations are therefore legally fully-fledged representatives on the relevant joint committees at sector level.

The CGSLB regroups all sectors within one core union organization.

Union organizations are also federated at regional level. This enables them to be in closer touch with 'on the ground' realities.

3.2. The employers' organizations

On the employers' side, it is laid down in legislation that the following are considered to be representative⁵:

1. the **inter-professional employers' organizations constituted at national level** and represented on the Central Economic Council and the National Labour Council. Among these are the *Fédération des entreprises de Belgique* (FEB) and, more recently, the *Union des Entreprises à Profit Social* (UNISOC)
2. the **professional organizations affiliated to an inter-professional organization**, e.g. Agoria (*Fédération de l'industrie technologique*)
3. the **national inter-professional organizations and professional organizations recognized under the law of 6 March 1964** 'unionizing' the middle classes and which are representative for the heads of skilled crafts and trades enterprises, small- and medium-sized businesses, and light industry, as well as for persons who are 'freelance'/self-employed in a professional/intellectual occupation. These are the *Union*

⁵ Law of 5 December 1968 on collective bargaining agreements and joint committees (Belgian Official Journal 'Moniteur belge' of 15 January 1969)

des Classes Moyennes (UCM), UNIZO, the *Fédération Wallonne de l'Agriculture* (FWA), and the Boerenbond.

4. the professional employers' organizations which in a given branch of activity are declared as being representative by the King on the advice of the National Labour Council. Among these are the sectoral federations of the social profit sector having a seat on joint committees. It is to be noted that a branch of activity does not necessarily correspond to one joint committee, for it may be broader or smaller than the field of competence of any one such committee.

3.3. The sectoral employers' representation

Whether at cross-sector or sector level, representativeness within the social profit or non-market sector proved to be more easily 'established' for trade union representatives than for employer representatives.

Indeed, following World War II, the criteria laid down in the 1944 Social Security Act and taken up in the legal texts⁶ have had the effect of guaranteeing the FGTB, CSC and CGSLB a monopoly on workers' representation.

On the other hand, the setting up of employers' representation was more complex owing to the diversity and heterogeneity of the sector's employers.

We have seen that to be a 'social partner', an employers' organization must be considered as representative if it comes under one of the categories previously defined. This is a prerequisite as regards both general and external representational status and powers. Moreover, to have a seat on a joint committee and thus take part directly and fully in the sectoral social consultation, it has to prove it has internal or particular representational 'standing' within a sector of activity.

To do so, it must follow a special recognition procedure by applying to the federal administration (*Service public fédéral Emploi, Travail, Concertation sociale*). This federal public department for employment then examines whether it fulfills the representational criteria for the joint committee concerned, i.e. that it brings together a sufficient number of employers in the sector and that these employers are 'autonomous'. The National Labour Council is also consulted for its view on the request for recognition prior to the final decision, which is taken by the Minister for Employment.

⁶ Law of 20 September 1948 on the organization of the economy (Belgian Official Journal 'Moniteur belge' of 27 September 1948) and law of 29 May 1952 establishing the National Labour Council (Moniteur belge of 31 May 1952)

In the social profit sector, the degree of organization of employers was for a long time very unequal. This held up not only the process of some organizations being recognized as representative but also the constitution of new joint committees able to take charge of the new activities being developed on the ground.

The discrepancy is particularly apparent in the diversity of social profit sub-sectors (health, child care, socio-cultural activities, etc.), in the size of sectoral employers' federations (the older hospital federations which represent a large number of institutions employing thousands of workers and other more recent sectoral federations which represent only a few institutions, themselves small in size), and in the membership of or adherence to a philosophical or political movement in Belgian society, e.g. socialist, catholic, pluralist.

The professionalization of various sectors gradually led to the structuring of employers' representation into sectoral employers' federations. These were then step by step recognized as fully-fledged representatives and partners in the sector's employer/worker consultation process.

At present, there are about fifty sectoral employers' federations⁷ representing employers of the social profit sector. The fields concerned are as follows :

- > **General health care** : hospitals, care of the elderly, home care workers, mental health services, blood transfusion and treatment services, transport of the sick and disabled, etc.
- > **Social welfare** : child care, prevention and health promotion services, family planning, adoption, combating ill-treatment and abuse, telephone help lines, social service, combating drug abuse and addiction, etc.
- > **Performing arts** : dance, music, theatre, opera, etc.
- > **Socio-cultural** : training and integration, youth, sport, development and integration, cooperation for development, non-commercial tourism, non-commercial radio and television, cultural centres, museums, libraries, environment, etc.

⁷ A list of the main sectoral employers' federations is available in the appendix to this report (annex 2). These federations are themselves generally gathered in inter-professional federations such as UNISOC, UNIPSO, Verso, CBENM or AnikoS (see below).

- > **At-home help and care** : assistance with domestic chores, minders and carers, 'meals-on-wheels', etc.
- > **Employment of persons with a disability** : in businesses and in 'sheltered' workshops
- > **Educational and accommodation establishments and services** : help for the disabled, youth assistance, general social welfare, social housing initiatives, etc.
- > **Education**

These federations regroup employers of the private and/or public sector and represent employers active at national level or on part of the territory of Belgium (Flanders, Wallonia, Brussels, the German language Community). Some federations are active in several sectors of activity.

3.4. The inter-professional representation of employers

While the gradual structuring of employers' representation at sector level began in the 1970s, the question of how to organize their social profit sector representation at inter-professional level arose much later.

It was not until the early 1990s that, aware of their importance in terms of employment, some sectoral employers' federations – at the initiative of hospital and health federations – called on the federal government to join the National Labour Council, the national body for social dialogue gathering representatives of the economic and social spheres.

What they wanted was to 'have a say' in the drawing up of inter-professional agreements and conclusion of the national collective agreements they were required to apply to their workers. Their request was turned down. In point of fact, seats on this Council are allocated exclusively to organizations deemed to be representative at inter-professional level, which implies a minimum number of affiliations in all of the sector's branches of activity. Another prerequisite is that these organizations have no ideological 'leanings'.

The applicant federations did not meet these two conditions. They were neither neutral nor inter-professional and were insufficiently representative of the social profit sector as a whole. This led them to consider creating an inter-professional umbrella organization.

The *Confédération des entreprises non marchandes* (CENM) was set up on 29 June 1994 with 26 members, the federations of Dutch-, French- and German-language employers. Today, it is called UNISOC⁸ (*Union des entreprises à profit social*) and has 47 members.

As of the late 1990s, new inter-professional organizations⁹ were constituted to respond to Belgium's specific regional and community interests :

- > the *Vlaamse Confederatie van de Social Profit Ondernemingen* (VCSPPO) was set up in 1997 to represent the Flemish associations. In 2007, It was renamed **VERSO** (*Vereniging voor Social Profit Ondernemingen*)
- > the *Union Francophone des Entreprises Non Marchandes* (UFENM) was set up in 1998 to represent the French- and German-language associations. It was renamed **UNIPSO** in 2008
- > the *Confédération Bruxelloise des Entreprises Non Marchandes* (**CBENM**) came into being in 2005
- > **AnikoS**, the inter-professional platform of social profit enterprises set up at German-language Community level, was created in 2007

The distinctive feature of these inter-professional organizations is that they represent sectoral employers' federations and not employers directly. These employers' organizations belong to the private (non-profit making) or public social profit sector and adhere to various ideologies.

These five inter-professional employers' organizations regroup some fifty employers' federations active in the following sectors : health, care and accommodation of the elderly, home help and care, aid to the vulnerable, assistance and accommodation for persons with a physical or mental disability, child care and welfare, enterprises employing disabled persons, socio-professional integration, culture, sport, education, non-governmental organizations.

The common purpose of these umbrella structures is to represent and defend the social profit sector vis-à-vis public authorities and other social actors and to provide quality services to their members. The cross-sector employers' federations position themselves as 'fully-fledged' participants in social dialogue, in inter-professional consultation/conciliation, and in the development of new policies.

⁸ UNISOC : <http://www.unisoc.be/new/FR/home/>

⁹ Verso : <http://www.verso-net.be/>; UNIPSO : <http://www.unipso.be/>; CBENM : <http://www.bcsपो.be/>; AnikoS : <http://www.anikos.be/>

3.5. The position of inter-professional in social dialogue

By creating umbrella structures to federate social profit sector employers engaged in various branches of activity, the resolve was to become social partners in their own full right alongside historical organizations representing the market sector. The aim of these cross-sector employers' federations was to be recognized as representative of the social profit sector and thus form part of the employer/worker consultation bodies – at all various State levels.

To achieve this aim at national level, the UNISOC (known at the time as the CENM) in 1995 applied for a seat on the National Labour Council, the social consultation body that brings together representatives of the economic and social sphere.

Despite political support, the road to representational recognition by and of the other workers' and employers' representatives on this Council proved to be a long and hard one. Indeed, while recognizing the importance of the private social profit (non-market) sector, these representatives remained very reticent to welcome the UNISOC among them and to offer it a seat on the Council. The main argument put forward was the lack of autonomy and independence of the social profit sector enterprises that were non-profit associations yet publicly funded. This, in the Council's view, deprived them of autonomy and would therefore bring the public authorities into the domain reserved for social talking partners, i. e. into the inter-professional negotiation.

Unable to overlook the weight of the social profit sector and the need for it to be included in the inter-professional consultation process, the other workers' and employers' representatives on the National Labour Council consequently proposed proceeding in stages. In April 1995¹⁰, UNISOC was granted 'associate membership', which means that it could participate in meetings and works. Its positions, however, would not be 'taken on board' in the Council's actual opinions nor, more especially, could it conclude inter-professional collective bargaining agreements - a key instrument of social consultation. Provision was made though for a regular review to assess the evolution of UNISOC's representational standing within the social profit sector and its subsequent fuller involvement in the works of the Council.

¹⁰ Royal decree amending the royal decree of 24 June 1952 fixing the number of members on the National Labour Council and determining the details of their presentation (Moniteur Belge of 17 May 1995)

Meanwhile, in addition to proving the representative nature of UNISOC, employers of the social profit sector had, via its national and regional umbrella organizations, to strive to affirm their legitimacy as a bona fide economic and social force in Belgian society and their contribution to wealth creation through the added value generated, more particularly, by the creation of new jobs. What they also had to do was repeatedly highlight the specific role played by the social profit sector to provide accessible services of quality satisfying basic needs (health, education, social welfare and so on) unmet by public authorities. Similarly, they had to make it understood that to maintain the quality and effectiveness of social profit services, account absolutely had to be taken of the sector's specificities in terms of employment and work regulations, e.g. working hours, night- and part-time work, continuity of services, and so on.

After long years of waiting and struggle, the UNISOC did finally become a fully-fledged member of the National Labour Council under the historic agreement of 11 September 2009¹¹ signed by all of the inter-professional federal social partners. With it came both the official recognition and status of an employers' organization truly representative of the social profit (non-market) sector and full 'active' membership of the National Labour Council, whereby UNISOC could henceforth partake in its works, have the views of the sector's employers 'enshrined' in the Council's opinions, negotiate, and sign collective bargaining agreements impacting on workers and employers as a whole.

¹¹ This agreement of 11 September 2009 was integrated into the law of 29 May 1952 establishing the National Labour Council via its modification by a law of 30 December 2009 carrying various provisions (Moniteur Belge of 31 December 2009)

4. The organization of social dialogue

Social dialogue, as institutionalized today in Belgium, is the result of a long evolution that gathered great momentum after World War II. It is founded on the involvement of social partners in laying down rules concerning them, particularly those to do with working conditions. The objective is to adapt such rules so that they are as near as possible to 'on the ground' reality and thus easier to put into practice. To achieve this, social dialogue functions on a 3-tier basis.

Structured in this way, with 3 closely connected levels, i.e. cross sector, sector and corporate business, it allows for agreements to be concluded at each of them, settling the individual and collective relations between employers and workers. The employers and workers of the social profit sector are directly concerned by the agreements negotiated in the course of these consultations.

Alongside these consultation arenas resulting in genuine sources of law, there exist other forms of social dialogue and platforms within this tripartite arrangement where the social profit sector plays a particular role.

The organization of employer/worker dialogue varies depending on whether it pertains to the private social profit sector (i.e. non-profit-making or 'not-for-profit' enterprises) or the public social profit sector.

Moreover, one of the specific characteristics of social dialogue in the social profit sector is the potential presence alongside employer and worker representatives of a third party, i.e. the public authorities.

4.1. The private 'not-for-profit' sector

Social consultation at cross-sector level

The main inter-professional social consultation 'platforms' involving employers of the social profit sector are as follows :

The National Labour Council¹²

At federal level, the National Labour Council is THE venue for cross-sector discussions between employers and workers. Instituted under the law of 29

¹² <http://www.cnt-nar.be/>

May 1952¹³, it is a body with equal representation on both sides, i.e. 50 % inter-professional organizations representing employers and 50 % those representing workers. As outlined in the preceding chapter, the UNISOC (*Union des entreprises à profit social*) representing employers of the social profit (non-market) sector at federal level officially joined the 'ranks' of employers in 2009.

The National Labour Council has a twofold mission. It tables opinions and proposals on all matters pertaining to employers and workers (labour law, social security, etc.). Since 1968, this Council has also been empowered to conclude collective bargaining agreements¹⁴ of national and inter-professional scope. In practice, it largely avails itself of this possibility. The collective bargaining agreements cover a whole range of labour-related matters, e.g. trade union delegation status (CBA n° 5), part-time working (CBA n° 35), alcohol and drug prevention in the workplace (CBA n° 100), and so on.

The Central Economic Council¹⁵

The CCE (*'Conseil Central de l'Economie'*) is a joint inter-professional consultative body set up under the law of 20 September 1948 on the organization of the economy with a view to institutionalizing dialogue between employers and workers on economy-related matters and assisting the public authorities with economic policy-making. Since 1999, UNISOC has represented the interests of social profit sector employers. It became a full member of the Central Economic Council in 2009.

In its advisory capacity, this Council tables opinions and proposals to the national public authorities on issues concerning the national economy.

The High Council for Health and Safety in the Workplace¹⁶

This High Council, the CSPPT (*Conseil supérieur pour la Prévention et la Protection au Travail*), set up as part of the national administration (*Service Public Fédéral de l'Emploi, du Travail et de la Concertation Sociale*) is a consultative body with equal representation on all sides. It tables opinions, either at its own initiative or by request of the authorities, on measures relating to the well-being of workers in places of employment, e.g. health and safety, work-related psychological and social stress, ergonomics, work hygiene, improving the workplace environment, etc.

¹³ Law of 29 May 1952 establishing the National Labour Council

¹⁴ See below 'Instruments of social consultation/conciliation : collective bargaining agreements'

¹⁵ <http://www.ccecrb.fgov.be/>

¹⁶ http://www.emploi.belgique.be/detailA_Z.aspx?id=1282 (Website link: High Council for Health and Safety in the Workplace)

The UNISOC is present within this Council on behalf of the social profit sector.

'Inter-professional' agreements

Inter-professional social partners' leaders also meet for informal consultations. They form what is called the 'Group of Ten'. Since the 11 September 2009 agreement officially recognizing UNISOC as an organization duly representative of employers' organizations of the social profit sector - and thereby also as a social partner - this national umbrella organization has been invited to actively participate in the works of this group.

As it has done since the 1960s, this 'Group of Ten' convenes every two years to negotiate an 'inter-professional agreement' (IPA) which serves, at national level, to determine the scheduling and scope of private sector employer/worker consultation for the next two-year period. This framework agreement covers such matters as pay trends, social security contribution reductions, earnings replacement/income maintenance benefits, etc... In itself it has no 'force of law' and must be enshrined in laws, decrees or collective bargaining agreements before it can have statutory effect.

The economic and social Councils¹⁷

Alongside national social dialogue, consultations also take place within Belgium's federate bodies which bring together inter-professional organizations representing employers and workers at the level of each federate entity. They are responsible for tabling opinions, at their own initiative or by request of the public authorities, on all matters that come within the ambit of the regions or communities and are of interest to the social partners.

There are five of these Councils: the CESW for Wallonia, the CESRB for the Brussels region, the CESCFC for the French-language community, the SERV for the Flemish-language community, and the WSR for the German-language community. Within each of them, employers of the social profit sector are represented as follows: by UNIPSO for the CESW and CESCFC, by CBENM for the CESRB and CESCFC, by Verso for the SERV, and by AnikoS for the WSR.

¹⁷ CESW: <http://www.cesrw.be/> SERV: <http://www.serv.be/serv> WSR: <http://www.wsr-dg.be/> CESRB: <http://www.esr.irisnet.be/>

Social consultation at sector level

At sector level, employer/worker consultations mainly take place within joint committees. These can set up social funds which are jointly run and of particular importance for the social profit sector.

The Joint Committees

These were instituted under the law of 5 December 1968 on collective bargaining agreements and joint committees¹⁸. They are bodies with equal representation on both sides, i.e. 50% employers' organizations and 50 % trade union organizations.

There are joint committees for all branches of activity, the idea being to regroup enterprises engaged in the same line of business so that regulations applying to them are adapted to working conditions. Other joint committees or sub-committees can also be set up for a specific territory or sector of activity.

Their main aim is to conclude collective bargaining agreements¹⁹, avert or settle labour conflicts, advise the government, the National Labour Council or the Central Economic Council, and to fulfil each mission entrusted to them by law.

The process of setting up a joint committee (or joint sub-committee) is fairly long and complex. It can be initiated by the Minister for Employment or at the request of one or several organizations following consultation of all the workers' and employers' organizations that may be concerned. Together they then decide on its name and ambit.

Once the joint committee has been constituted, the organizations concerned are asked whether they wish to have a seat on it and, if so, they must show proof of their representational status²⁰. After clearance has been given, the Minister determines which organizations will be represented and the number of mandates attributed to each of them.

¹⁸ Law of 5 December 1968 on collective bargaining agreements and joint committees (MB 15 January 1969)

¹⁹ See below 'Instruments of social consultation/conciliation :collective bargaining agreements'

²⁰ As understood by article 3 of the law of 5 December 1968 on collective bargaining agreements and joint committees detailed in the chapter on Who's who in the social dialogue (see above)

Joint Committees of the social profit sector

For the social profit sector, joint committees first started being set up as of the 1970s by type of activity. They were then followed by subcommittees to correspond to trends in the development of Belgium's institutional landscape.

Currently, within the social profit sector there are 10 joint committees (CP) and sub-committees (SCP) covering the following sectors²¹: education, home help and elderly care services, educational and residential establishments and services, enterprises and 'sheltered' workshops employing the disabled, socio-cultural activities, health establishments and services, social welfare, the (residuary) non-market sector.

Within each of them is a representation of the employers of the sector concerned. These are sector employers' organizations officially recognized as representative by the national administration and appointed to sit on these committees and sub-committees²².

Most of the social profit enterprises active in each of these sub-sectors are represented via employers' federations having a seat on these joint committees or sub-committees. It is to be noted, however, that these federations do not include all existing employers' associations. The National Labour Council is regularly consulted for opinions on the applications for official recognition submitted by new organizations.

Social funds

Within joint committees or sub-committees, social funds²³ can be set up under collective bargaining agreements at the initiative of the social partners. These funds are run autonomously on a parity basis and used :

- > to finance, grant and pay social allowances and benefits for workers
- > to finance and organize professional/occupational/vocational training for workers and young people
- > to finance the social security and health of workers in general

Funding comes from affiliated employers' social contributions which are paid in directly or via the National Office of Social Security (ONSS).

²¹ The full list of joint committees and subcommittees is available in the appendix (annex 3)

²² The list of employer sectoral federations represented in CPs or SCPs is available on the website of [SPF Emploi, Travail et Concertation sociale](#)

²³ Law of 7 January 1958 on social funds

Within the social profit sector, there are three types of social funds administered within each sector via the joint committees and sub-committees :

- > training funds²⁴: these serve to provide training for workers of the sector (and particularly those having few or no skills). Such training support takes various forms depending on the sector concerned: team coaching/mentoring and supervision, easier access to more specific training depending on the types of services or jobs, upgrading certain sectors or jobs and their level of expertise, etc.
- > Maribel social funds²⁵: their aim and responsibility is to create further employment, to reduce the arduous nature of some jobs, to meet the needs of services and to improve their quality.
- > specific funds²⁶: these aim to address sector-specific issues such as arrangements for workers nearing retirement (improved time credit, early retirement, compensatory hiring...) or to cover other social benefits (refund of trade union subscriptions, union training, training not covered by existing training funds...).

The management of these funds and the resources allocated to achieve the objectives defined for each of them is in the hands of organizations representative of employers and workers, which makes them very much an instrument of sectoral social consultation.

Coordination of the actions of these social funds for the social profit sector is handled by various associations according to the levels of power of the Belgian State, i.e. *Fe-Bi* for federal or bi-community funds, the *VSPF* for the Flemish language community funds, and the *APEF* for the French and German language community funds²⁷.

Social consultation at corporate business level

Social dialogue at this level (which includes enterprises of the social profit sector) is structured differently according to the size of companies. Each of the consultative bodies concerned has specific missions.

²⁴ Interprofessional agreement of 18 November 1988 establishing a compulsory employer's contribution for 'initiatives for the employment and training of groups at risk'. Groups at risk: low-skilled persons (without a higher secondary education degree (CESS)) long-term unemployed, workers at risk of losing their job due to lack of qualification or to restructuring, disabled workers, etc.

²⁵ Royal decree of 18 July 2002 on measures aiming at promoting employment in the non-market sector

²⁶ Specific funds have only been set up within a few sectoral joint committees

²⁷ Website links: Fe-Bi <http://www.fe-bi.org/fr/home> APEF <http://www.apefasbl.org/> VSPF <http://www.vspf.org/>

The Works Council

Companies employing 100 or more workers are required to set up a Works Council. This is a joint body made up of the employer's and workers' representatives.

The main tasks of the Works Council are :

- > to receive and communicate to workers the management's information on the economic and financial standing of the company, on employment trends in all personnel categories, and on various aspects of corporate life (training, environment and so on)
- > to table opinions, suggestions or objections to any measure that could affect work organization and working conditions, personnel policy and so on
- > to draft and amend the working rules regulation, to examine the criteria to be followed in case of personnel dismissal and recruitment, to schedule annual holiday times and so on

The Works Council comprises, on the one hand, the employer and employer-designated delegates and, on the other hand, representatives elected by the company's workers every four years from the lists of candidates put forward by their representative organizations.

The Committee for Health and Safety in the Workplace

It is compulsory for companies employing 50 or more workers to have a committee for health and safety (CPPT). It too is a joint body with equal representation on both sides, i.e. 50 % employer representatives and 50 % elected worker representatives.

The main role of this committee is to identify and propose ways to improve the wellbeing of employees in their place of employment. This includes information campaigns, supervision and decision-making, submitting proposals, dealing with complaints, risk detection in terms of health, safety, hygiene, psycho-social stress, etc.

If there is no Works Council, this Committee assumes some of its mandated powers primarily as regards specifically labour-related matters.

The trade union delegation

Alongside these two elected bodies with equal representation, a trade union delegation can also be set up under certain conditions depending on the sectors concerned. The threshold of number of workers required to have a trade union delegation is determined by sector within the joint committees. It is therefore not a joint body for it represents the workers vis-à-vis the employer. Its members can be elected or designated by workers' representative organizations.

The trade union delegation's spheres of competence pertain mainly to labour relations, upholding social legislation, and the defence of individual members of personnel. It is in fact the trade union delegation that engages in negotiations with a view to concluding collective bargaining agreements on behalf of its workers.

In companies employing more than 50 workers, a trade union delegation can co-exist alongside a Works Council or a Committee for Health and Safety in the Workplace. Where neither one of these two bodies has been set up, the union delegation takes on part of their missions e.g. work organization, economic and financial information, working rules regulation, etc.

Below the threshold required to have a union delegation appointed, it is incumbent upon trade union organizations to provide help and support to affiliated workers requesting it, individually or collectively, via a permanent regional contact person. The employer is also bound by law to hold direct consultations with workers, particularly for matters relating to working rules regulation, risk analysis, and so on.

Instruments of social consultation/conciliation : collective bargaining agreements

Real sources of law

A collective (labour) bargaining agreement is concluded between one or several workers' organizations and one or several employers' organizations/federations. It governs individual and collective relations between them within a company, a branch of activity, or at cross-sector/trade/industry level.

Whilst having for a long time and very often been used as an instrument in labour-related negotiations, this form of agreement gained 'fully-fledged' legal recognition under the law of 5 December 1968²⁸.

²⁸ Law of 5 December of 1968 on collective bargaining agreements and joint committees (Moniteur belge of 15 January 1969)

By legal definition :

- > the 'collective bargaining agreement' (which term emphasizes the freedom of negotiation of social partners, as the public authorities do not 'partake' in its genesis)
- > the collective bargaining agreement lays down the rights and obligations of employers and workers (as well as those of the organizations/federations representing them)

The collective bargaining agreement can also have extended legally-binding effect. At the request of the joint committee or of a representative organization within it, it can be enshrined in a Royal Decree which is published in Belgium's official journal *Moniteur belge*. It then becomes legally binding for all employers and workers of the relevant joint committee insofar as they are included in the field of application defined in the collective bargaining agreement.

The collective bargaining agreement constitutes an important legal source in labour law. Although what is set down in the agreement is freely and contractually a matter for the social partners, there is a hierarchy in sources of law that must be abided by. The provisions of a collective bargaining agreement cannot 'exceed' agreements of the joint committees of which a corporate enterprise is part... and agreements at joint committee level cannot depart from what the National Labour Council has endorsed or from higher echelon sources of law, e.g. international agreements or legislation.

Content and duration

Be it at corporate business, sector or cross-sector level, a collective bargaining agreement therefore prevails as to the rights and obligations binding both employers and workers.

In the social profit sector, the main aspects currently covered by sectoral collective bargaining agreements concluded within joint committees are: work conditions, pay, working time, holidays, arrangements for workers nearing retirement, financial contribution to travel expenses, training, trade union delegation status, early-retirement pension schemes, and so on.

Subject to the approval of organizations with a seat on the joint committees, collective (employer/worker) agreements are concluded for a fixed-term, for an indefinite period, or for an indefinite period with a renewal/extension clause.

4.2. The public sector

Alongside private sector employers, who represent more than two-thirds of the social profit sector, there are social profit sector employers 'over-arching' the public sector.

Dialogue between employers and workers in the public sector is organized in a particular way and with its own spheres of negotiation, consultation, and conciliation. The main specificities are outlined hereunder.

Principles of social dialogue

Collective labour relations in the public sector are governed by the law of 19 December 1974²⁹. This legislation applies to all public services, i.e. federal, community, regional and local administrations, public centres for social welfare, municipalities, provinces, State education, etc.

It stipulates that any and all measures concerning workers must be preceded by consultation and negotiation with representative trade union organizations. In the public sector, a distinction is made between employer/worker 'negotiation' and 'consultation/conciliation'.

Negotiation is mandatory for matters related to 'basic working rules and regulations', i.e. pay status, administrative status, pension funds and schemes, relations with trade union organizations, structuring of social services, general provisions as regards working time, work organization, and staffing. Negotiation outcomes are officially set down in a protocol stating whether or not agreement has been reached between the public sector employer and the representative trade union organizations. When there is no agreement between the parties present, record is taken of the 'around the table' positions of each of the organizations.

Such protocols constitute a moral, political (and policy) commitment on the part of the public employer to abide by what has been agreed. It is not, however, either legally binding or enforceable. This means that the employer/public authority can choose to overlook or sidestep the decisions noted in a protocol. In essence, therefore, there exists no collective (bargaining/labour) agreement binding the organizations.

²⁹ Law of 19 December 1974 organizing the relations between public authorities and the trade unions of the agents pertaining to these authorities (MB 24 December 1974)

Aside from negotiation, the matters subject to consultation/conciliation are, more particularly, hours of work and work organization within a given unit/department/place of employment, personnel/staffing policy and planning, health and safety in the workplace, etc. The outcome of consultation/conciliation is noted in what is referred to as a 'reasoned opinion' which, in effect and in principle, means that public (sector) employers are not legally bound to abide by it although they do have to 'justify' their decision(s).

Spheres of social dialogue

These are determined under the law of 19 December 1974. The various negotiation/consultation committees provided for are structured according to the rationale of the relevant level of administration.

Committee A is comparable to the National Labour Council. Its main objective is to deal with matters concerning overall public services (federal, community, regional, local and other administrations). Generally-speaking, inter-sector social programming is negotiated every two years within Committee A and it has sole powers as regards minimum 'common' social security rights for all public services personnel members e.g. family allowances, pensions, accidents in the workplace, work discontinuity/career breaks...).

Committee B has powers of jurisdiction for federal public services/departments. At federal level, 20 sectoral committees have been created. It is within these that take place negotiations concerning a given department or overall organization. 'Grassroots' consultation/conciliation committees, for their part, focus on specific issues for one or a few given services/departments.

Committee C has powers of jurisdiction for local and regional administrations, as well as publicly funded or grant-aided official education. Local and regional administrations are grouped by region, each with its own negotiating committee. Publicly funded official educational establishments are grouped by Community, within which a special committee has been set up for each organizing authority.

At local level, in the *communes* (local councils/municipalities), in provinces, and in schools within their ambit, negotiation of matters specific to a particular *commune* take place within **Special Committees**. At local administration level, such committees are more akin to Works Councils in

companies. There are also committees which bring together several organizations/bodies active in any one sector.

Alongside these Committees – and as in the private sector - there are social funds, one of which is the Maribel social fund for the public sector.

Actors of social dialogue in the public sector : place of employers' organizations

All of the arenas for consultation and negotiation are set up on the basis of equal representation on both sides and bring together public authority representatives and representatives of trade union organizations.

On the workers' side, for a union organization to be deemed representative - and entitled to a seat on Committee A, Committee B and Committee C - it must be active at national level, defend the interests of all categories of public sector personnel, and be affiliated to an inter-professional organization represented on the National Labour Council. In effect, this denotes the *Centrale Générale des Services Publics*, the *Fédération des Syndicats Chrétiens des Services Publics*, and the *Syndicat Libre de la Fonction Publique* (SLFP).

On the side of public employers, it is the public authority - whose representation depends on the public administration concerned – that sits and negotiates at these venues. The local public employer can, however, attend these committee meetings in the capacity of 'technician' or expert and thus be part of the public authority delegation and speak on behalf of local public sector employers.

For the social profit sector, what then; happens is that an organization representative of social profit sector employers may be appointed as an expert and mandated by the public authority... thereby 'qualifying' it to be part of its delegation. In this way, the organization representing employers fully partakes in the process of employer/worker consultation³⁰.

³⁰ For instance, the professional and employer's association for care institutions and services, Santhea, is represented on Committee C in the public authority delegation.

4.3. 'Tripartite' employer/worker dialogue in social profit sector

As previously mentioned, social dialogue in the social profit sector brings together two main talking partners, i.e. employers and workers. This principle of face to face discussions is common to all other market sectors.

However, what differentiates the social profit sector is its funding. In reality, most of this sector's organizations rely to a great or lesser extent on 'the public purse'. This inevitably has an influence on the process of consultation between employers and workers as it brings in a third party, i.e. the subsidizing authority.

Consequently, in some cases, the consultation becomes tripartite, with trade union organizations, employers' organizations and the public authority sitting around the table. The accord reached is then also qualified as tripartite. It is in this framework that 'non-market agreements' have developed. Once the agreement signed, the Joint Committees (for the private sector) take up their role to take matters forward by concluding collective labour agreements, fixing obtained progress.

'Non-market' agreements are those that lay down the main lines of employer/worker relations in the social profit sector for several years, including the subsidy arrangements agreed with the public authorities for the measures jointly decided upon. Such agreements are unique in the sense that, alongside inter-professional and sector-by-sector agreements, consultations pertaining only to the social profit sector as a whole also take place at various national levels, i.e. federal, regional, community.

At the outset, under the impetus of trade union organizations, 'non-market agreements' were concluded so as to align the pay scales of workers of the overall social profit sector (with the scale of hospital establishments being taken as the target or basic scale of reference). This was intended to promote the mobility of workers and attractiveness of the sector. The initial agreements to this end were signed by the political leaders and social partners in the spring of 2000.

Since then, the pace of progress of such harmonization has varied according to the sectors concerned and the budgetary capacity of their relevant governing federate bodies. Into the mix have also come fresh demands from both trade unions and employers' federations to do with working conditions, as well as training, travel expenses, management/supervision issues, etc. Other 'non-market' agreements – generally multi-annual – have been concluded to meet some of these demands.

5. The key questions in social dialogue

To determine the main key questions in the field of social dialogue in the social profit sector, we chose to resort to the Focus Group methodology. A Focus Group meeting was held on 27 March 2012 and attended by some fifteen social dialogue stakeholders of the social profit sector from the following organizations :

- > UNIPSO (*Union des entreprises à profit social : Wallonia*)
- > UNISOC (*Union des entreprises à profit social : national level*)
- > VERSO (*Vereniging voor Social Profit Ondernemingen : Flanders*)
- > CBENM (*Confédération Bruxelloise des Entreprises Non Marchandes : Brussels*)
- > Sectoral member federations of UNIPSO
- > Trade union organizations

The purpose of this Focus Group was to engage in an open discussion on the topical key questions of social dialogue in the social profit sector, to exchange views and ideas and together identify problems and solutions taking on board all of the participants' suggestions.

Therefore, this chapter in particular presents the synthesis of the discussions between participants. It is structured according to five key questions that were addressed during that day.

Possible repetitions in relation to previous chapters and the direct style employed are to be explained by the concern to keep all the issues addressed and the exchanges as they were expressed.

5.1. Specificities of employer/worker relations in the social profit sector

In Belgium, a number of factors differentiate the social profit sector from other sectors of activity when it comes to social dialogue.

The volume and type of employment

The social profit sector essentially offers services to the population, which implies that personnel costs account for a significant proportion of 'production expenditure' compared to other sectors. In terms of employment, the social profit sector is one of the most important. This, combined with the

support it provides in bringing workers onto the labour market, makes it an economic stabilizer and a sector of interest for the public authority when it comes to employment policy-making.

Most of the workers it employs are women and among them a lot of older ones (ageing of the working population) and many of the jobs are part-time (whether voluntary or not), although differences do exist within the social profit sector. The jobs here are in both private and public enterprises.

The role of public authorities

Public authorities play a crucial role in that they finance part of services provided to the population. The subsidies granted depend on the public budget available and political/policy choices, but not on the economic status of the social profit enterprises.

At social dialogue level, the rule is often tripartite, i.e. government, employers and trade unions, and, in this context, the government represents the authority setting the perimeter ('fields of application') and 'ring-fencing' budgets.

The nature of social dialogue

Generally speaking, labour relations are good and the social partners strive together to develop the social profit sector, on a tripartite basis with the public authorities. For example, one area of joint endeavour currently concerns policy on arrangements for those nearing retirement age.

The social profit sector does not as yet have representation within all decision-making bodies. Achieving this is a complex and slow process, but progress is being made as can be seen from recent developments at National Labour Council level.

Specific though they may be, 'non-market' agreements are not tied-in to inter-professional agreements. Some matters are consequently more 'fast-tracked' than others. Moreover, they do not always apply to all workers.

Social dialogue is multi-level (cross-sector, by sector, by corporate business) and thus involves different (corporate, sector and cross-sector) participants. There is nevertheless a willingness to harmonize the sector, to view it as a whole, which is not the case in other European countries with a more marked heterogeneity. Employers/workers regularly uphold 'globalizing' positions – one example being the alignment of pay scales with those of hospitals – to

promote worker mobility and the attractiveness of some branches of activity. However, such positions cannot always be tailored to all structures. Greater account has to be taken of sub-sector specificities and realities. For some, this means increasing the 'clout' of sectors with regard to the cross-sectoral.

The public sector

Many social profit services are 'delivered' by public enterprises (about one-third of the non-market sector). Public authorities thus simultaneously play the role of a supervisory body and that of a services operator.

Each local authority is autonomous so that the framework agreements signed within the Committees are not directly applicable to it and have to be renegotiated within each public administration or authority. The agreements pertain to all personnel (supervisory authority, the administration as public operator of social profit services).

At present, the pay scales of university graduates in the social profit sector are 'on a par' in public and private sectors. For holders of a secondary education diploma, pay levels are lower in public sector jobs, whereas for those with a non-university/higher education diploma they are lower in the private sector.

5.2. The evolution of social dialogue over the past decade

Developments here have been major and impressive. The social profit sector has become more professionalized through its trades and occupations and also its representative status. Disparate sectors have come together to set up sector-by-sector and then cross-sector federations so as to 'speak as one'. Concurrently the threshold of union delegations has been lowered in some sectors. Both of these factors have allowed for the setting up and structuring of social dialogue in sectors where there had previously been no dialogue between employers and workers.

The sector is now an integral part of various consultative bodies such as regional Economic and Social Councils, the Central Economic Council and, since 2009, the National Labour Council. Unfortunately, it does not yet have as much weight as the historical market sectors (in particular the Belgian Employers Federation (*FEB*), and the Middle Class Union (*UCM*)), but its opinion is taken into consideration. These historical sectors are holding up the representational evolution of the social profit sector and 'protecting their patch' for they see the sector as wearing two hats: that of employer and that

of a services recipient. Objectively, from the perspective of volume of employment, economic importance, etc., the social profit sector merits having a greater say, i.e. more seats on these various official councils.

Professionalization of the sector also allows for the pro-active development of services, particularly through social innovation, in order to better meet the current and future needs of the population. Some institutions fear that this and the structuring of social dialogue, e.g. lowering of the threshold for setting up a trade union delegation, will increase administrative costs/workload and the number of regulations to be complied with.

As money becomes scarcer, financial management in social profit enterprises grows fiercer with cutbacks on expenditure for services meeting the basic needs of the population.

Such budgetary restrictions are also leading to harmonization of the laws applicable between the private and public sectors e.g. hospitals. The status of workers in the 'public operator of social profit services' sector is being aligned with that of the 'private operator of social profit services' sector. This is giving rise to a collateral issue, i.e. differences in pay between colleagues employed in the public/civil service (administration and public operator of social profit services).

5.3. Working and decision-making procedures

Trade union organizations were initially those making demands primarily to do with pay and working conditions. This historically served as a starting point in discussions for 'non-market agreements'.

Employers then responded to what the unions were clamouring for in order to limit their share of the cost of new policies, to structure the financing thereof, and to guarantee peace on the labour front. In recent years, employers have become more pro-active and are also laying down their priorities. Moreover, the claims of social partners are often the same (training, working conditions, stress management, attractiveness of the sector, etc.).

To take the sector forward and offer quality services, the social partners must reach compromise agreements as necessary. In Flanders for instance, the concern is on how to have a large and qualified enough workforce to meet the growing needs of the population.

The power social partners have differs according to the venues and issues addressed (co-management, co-operation or simply consultation). Not all sit on the same committees and not all debate venues are the same. For example, when the 'operationalization' of services and sector policies is under discussion, this concerns not the trade unions but the services operators, i.e. employers. Trade unions do, however, want to be part of all of these discussions. Finally, there are social funds whereby the social partners can deal with a range of issues (training, wellbeing, etc.).

In the public sector, there are specific particularities. Agreements are signed by the public authorities and the trade unions. Employers' federations have the role of technical experts. This means that the public authorities play a twofold role : that of managing authority and services operator.

5.4. The main problems in social dialogue

Institutional reform

Within cross-sector dialogue arenas, the social partners play a more reactive role in government plans. With the State's recent institutional reform³¹ and the transfer of certain competences to the federated entities, a more proactive approach will have to be taken and the optimum organizational model established to safeguard and/or develop the role of social partners as determined at federal level. Just as important is the need to clarify the future role of politics in this new model of management at federate level while guaranteeing the place and role of social partners within it. There is a fear that the supervisory authority may be overly arbitrary in departing from the co-management model. In Flanders, tripartite inter-professional committees (social partners and public authorities) already exist (e.g. Employment).

Multiplicity of consultation venues

At present, some deplore the fact that there is no social dialogue venue bringing together public and private social partners as well as the government.

The multiplicity and complexity of consultation venues and laws are making implementation difficult for small businesses.

For some matters, dialogue is fragmented in many places and this is hampering effectiveness.

³¹ Institutional Agreement for the Sixth State Reform – 11 October 2011

The nature of social dialogue

Efforts also have to be made to ensure that social dialogue is not 'distorted' by bringing into it other players such as users/beneficiaries. Talks cannot centre only on the purely financial aspect to maximize the value added of all social partners.

5.5. Vision of the future and message for Europe

Plans are in hand to create a new Joint Committee for the sector (JC 337, which is already constituted but inactive). It will bring together the residuary non-market sectors, as well as the *mutualités* (mutual insurance funds).

The sector must endeavour to join various cross-sector consultation platforms like the National Employment Bureau (ONEM) and the National Social Security Bureau (ONSS), to strengthen its position on the National Labour Council, the Central Economic Council and regional economic and social Councils.

One of the difficulties for the future is the relation between politics and the evolving sector, with a move away from public authority granting of approvals and subsidies towards competitive procedures on a market open to all social profit enterprises through funding linked to calls for projects. These result in a 'commoditization' of the sector and sometimes impose excessive constraints, e.g. hiring of holders of a specific diploma who must use an imposed method of working.

At the same time, social dialogue venues are becoming fewer as politicians take less account of social partners than before.

Several of the Focus Group participants are of the view that the European Union is pushing towards the privatization and fragmentation of the non-market sector. It is not considering social dialogue within a model of social protection applicable to the population as a whole (universal model), but working with target categories of people. It is failing to see the link existing in the sector between services providers and recipients. It is not recognizing collective and/or public services, but only economic services (producer-consumer model).

They believe it is important for the sector to get itself heard in the European social dialogue as the agreements can be transposed into directives. This represents an objective for the countries 'lagging behind' in non-market social dialogue.

Social dialogue must evolve to cover more and more sectors and thus bring improvements in terms of both working conditions and professionalization.

Efforts must be made to share information about national good practices in social dialogue, to not impose an overly Anglo-Saxon vision of the non-market sector and condemn the countries that are interested only in the funding they can get from the EU. It is important that Belgium upholds its model of social consultation.

In Belgium, several factors of success are cited :

- > confidence in social dialogue as an effective means of management
- > the role of the public authority as that of defining the framework and individual roles with the guarantee of co-existence of the various sectors
- > continuity in a democratic dialogue on the role and place of the citizen in the volunteer sector (in a context of scarcer resources and of 'commoditization', citizens have to get more involved in the sector and community life).

With ever fewer resources available, it is vitally important to safeguard the social profit sector against pervasive 'commoditization', failing which not all citizens will be able to afford quality services meeting essential needs. This could lead to a two-tier supply of services.

What is meant by 'non-market' has to be explained even though there are various aspects to it from one country to another. Its key economic role has to be factored and highlighted, by the same token as the positive spin-offs it engenders and its vital stabilizing function.

Attributing European status to 'not-for-profit' associations is also desirable. The case must also be argued for a broader interpretation of general interest social services. What must be made to emerge is the concept of a 3rd sector existing alongside the public sector and the private market sector.

Finally, the specificity of the social economy has to be upheld within the European Union. This is of paramount importance in the eyes of the Focus Group participants who fear that so-called social enterprises will in reality end up regrouping only commercial undertakings endowed with social 'gadgetry'. It is essential too that non-profit or 'not-for-profit' associations come to be regarded as economically important enterprises even though they do not have access to the capital market.

6. Conclusions

The social profit sector in Belgium has progressed considerably these past ten years in terms of volume of employment as well as diversity and quality of the services offered.

This has gone hand in hand with an ever more evolved and professionally structured social dialogue. There is no denying that the model developed to date is one that those active in the social profit sector – employers' and workers' organizations alike – today find altogether satisfactory.

Much effort has gone into securing representation(s) at the highest level and this momentum has to be maintained, at all levels, in the future. The model must continue evolving and indeed at times be re-invented at federate body level. Targeted improvements will be instrumental in overcoming the main difficulties encountered.

Expectations vis-à-vis the European Union are on a parallel with the fears it arouses among participants of the Focus Group. The quality and richness of social dialogue in Belgium are to be preserved and can undoubtedly serve as a reference for countries with a less developed system of social dialogue or looking to improve the organization of their existing one.

Defending the social profit sector in all that it stands for is crucial for the European Union as a whole. Although specific aspects may vary from one country to another, as a sector it is a key player on the overall economic scene given the positive impacts it engenders for the rest of the economy and its essential stabilizing function.

Sharing information and experiences with other countries is very much part and parcel of what is needed to keep improving practices and taking forward at European level its recognition as a third sector alongside the public and private market sectors. This is all the more important in the context of the current crisis.

Annex

ANNEX 1

List of partners

Project Coordinator

European Association of Service Providers for Persons with Disabilities (EASPD)

European Partners

European Council of Associations of General Interest (CEDAG)

European Federation of Public Service Unions (EPSU)

Eurodiaconia

SOLIDAR

European Federation of National Organisations Working with the Homeless (FEANTSA)

Workability Europe

Caritas Europa

Europea Platform for Rehabilitation (EPR)

National partners

Bundesarbeitsgemeinschaft Wohnungslosenhilfe (BAWO) - Austria

Scottish Council for Single Homeless (SCSH) - United Kingdom

Cáritas Española - Spain

Disability Federation of Ireland (DFI) - Ireland

Union des Entreprises à Profit Social (UNIPSO) - Belgium

Arbeiterwohlfahrt Bundesverband e.V. (AWO) - Germany

Luovi Vocational College – Finland

University Rehabilitation Institute Republic of Slovenia (URI) – Slovenia

Panagia Eleousa - Greece

Dutch Association of Healthcare Providers for People with Disabilities (VGN) -
The Netherlands

Observers

Centre de la Gabrielle MFPASS - France

ANNEX 2

List of main sectoral employers' federations (most are considered to be representative and are members of an inter-professional federation such as UNISOC, UNIPSO, VERSO, CBENM) :

AMA	Association des Maisons d'Accueil et des services d'aide aux sans-abris
ANMC	Alliance Nationale des Mutualités Chrétiennes
ANCE	Association Nationale des Communautés éducatives
AnikoS	ArbeitgeberInnenverband für den nicht-kommerziellen Sektor in der DG
APOSSM	Association des Pouvoirs Organisateur de Services de Santé Mentale
AVCB	Association de la Ville et des Communes de la Région de Bruxelles-Capitale
CBI	Coordination Bruxelloise d'Institutions sociales et de santé
CESSOC	Confédération des Employeurs du Secteur Sportif et Socioculturel
CODEF	Coordination et défense des Services sociaux et culturels
Coll.SAPS	Collectif SAPS
CRB	Croix-Rouge de Belgique
EWETA	Entente Wallonne des Entreprises de Travail Adapté
FASD	Fédération de l'Aide et des Soins à Domicile
FASS	Fédération des Associations sociales et de Santé
FCPF-FPS	Fédération des Centres de Planning familial des Femmes prévoyantes socialistes
FCSD	Fédérations des Centrales de Services à Domicile
FEBRAP	Fédération Bruxelloise des Entreprises de Travail Adapté
FELSI	Fédération des Etablissements Libres Subventionnés Indépendants
FESAD	Fédération d'Employeurs de Services d'Aide à Domicile
FIAS	Fédération des Initiatives et Actions Sociales
FIH	Fédération des Institutions Hospitalières de Wallonie
FILE	Fédération des Initiatives Locales pour l'Enfance
FIMS	Fédération des Institutions Médico-Sociales
FIPE	Fédération des Institutions de Prévention Educative
FISSAAJ	Fédération des Institutions et Services Spécialisés dans l'Aide aux Adultes et aux Jeunes

FNAMS	Fédération Nationale des Associations Médico-Sociales
FSB	Fédération des Services Bruxellois d'Aide à Domicile
FSMI	Fédération des Services Maternels et Infantiles de vie féminine
GASMAES	Groupement Autonome de Services et Maisons d'Action Educative et Sociale
ICURO	Koepel van Vlaamse ziekenhuizen met publieke partners (ICURO)
LNH	Ligue Nationale pour personnes Handicapées et services spécialisés
LLM	Landsbond van Liberale Mutualiteiten
Message	Mouvement des Etablissements et des Services Spécialisés dans l'Aide à la Jeunesse et à l'Enfance
MLOZ	Union Nationale des Mutualités Libres
MID	Medisch-sociale sector in dialoog
RKV	Rode Kruis Vlaanderen
Santhea	Association Francophone d'Institutions de Santé
SEGEC	Secrétariat Général de l'Enseignement Catholique
SMI	Services maternels et infantiles - Accueil de l'Enfant Vie Féminine
SOCIARE	Socioculturele Werkgeversfederatie
SG	Solidariteit voor het Gezin
SOVERVLAG	Socialistische Vereniging van Vlaamse Gezondheidsvoorzieningen
UNMS	Union Nationale des Mutualités Socialistes
UMN	Union des Mutualités Neutres
VCM	Vlaamse Christelijke Mutualiteiten
VNZ	Vlaams & Neutraal Ziekenfonds
VVDG	Vereniging van Diensten voor Gezinszorg van de Vlaamse Gemeenschap
VLAB	Vlaamse federatie van Beschutte Werkplaatsen
VOV/AEPS	Vereniging van Openbare Verzorgingsinstellingen NLK
VSKO	Vlaams Secretariaat Katholiek Onderwijs
VSO	Verbond Sociale Ondernemingen
VSZ	Vlaamse Socialistische Ziekenfondsen
VWV	Vlaams Welzijnsverbond
WGKV	Wit-Gele Kruis Vlaanderen
ZV	Zorgnet Vlaanderen

ANNEX 3

List of joint committees and sub-committees covering the social profit sector:

- > **JC 152 - JC for subsidized institutions in charge of independent education for manual/blue-collar workers**
- > **JC 225 - JC for employees of grant-aided independent educational establishments**
- > **JC 318 - JC for home helps and elder care services** (set up on 4 October 1971)
 - o JSC 318.01: French-speaking community, Walloon region and German-speaking community (set up on 21 June 1999)
 - o JSC 318.02: Flemish community (set up on 21 June 1999)
- > **JC 319 - JC of education and accommodation establishments and services** (set up on 15 May 1981)
 - o JSC 319.01: Flemish community (set up on 3 July 1990)
 - o JSC 319.02: French-speaking community, Walloon region and German-speaking community (set up on 3 July 1999)
- > **JC 327 - JC for enterprises employing disabled persons and 'sheltered' workshops for the disabled** (set up on 15 January 1991)
 - o JSC 327.01: Flemish community, Flemish community commission and sheltered workshops registered and/or subsidized by the Flemish community
 - o JSC 327.02: French-speaking community commission
 - o JSC 327.03: Walloon region and German-speaking community
- > **JC 329 - JC for the socio-cultural sector** (set up on 28 October 1993)
 - o JSC 329.01: Flemish community
 - o JSC 329.02: French-speaking and German-speaking communities, Walloon region
 - o JSC 329.03: Federal and bi-community cultural organizations
- > **JC 330 - JC for health establishments and services** (set up on 9 March 2003)
- > **JC 331 - JC for the Flemish social welfare and health care sector** (set up on 9 March 2003)
- > **JC 332 - JC for the French- and German-speaking and bi-community sector of social welfare and health care** (set up on 9 March 2003)
- > **JC 337 - JC for the non-market sector** (set up on 8 March 2008): residuary JC regrouping the organizations of the non-market sector which are not part of another joint committee with specific official attributions, i.e. in particular the *mutualités* (mutual aid/insurance funds).

BIBLIOGRAPHY

Main publications

- > DRYON Philippe et Estelle KRZESIO, " Les relations collectives dans le secteur non-marchand", Courrier hebdomadaire du CRISP, 2003/10, n° 1795, p.1 à 51.
- > CASSIERS, I. et DENAYER, L., " Concertation sociale et transformations socio-économiques en Belgique, de 1944 à nos jours", Institut de Recherches Economiques et Sociales de l'Université catholique de Louvain, Discussion Paper 2009-42.
- > DE WILDE Inger, "La concertation sociale dans le secteur public : une spécificité (résolument) maintenue", Revue trimestrielle, année 8, n° 32.
- > "La concertation sociale pour les "nuls", L'Essor de l'Interfédé, La revue trimestrielle du secteur de l'insertion socioprofessionnelle, Premier trimestre 2012 n°59.
- > "Concertation sociale", le nouvel Essor de l'Interfédé, la revue trimestrielle du secteur de l'insertion socioprofessionnelle, automne 2005, n°33.
- > "Toute la palette du dialogue social dans les milieux d'accueil d'enfants ", document réalisé par l'APEF pour le fonds social MAE de la Commission paritaire 332, septembre 2009.
- > "Dix années d'évolution du secteur à profit social", étude économique, UNIPSO, 2009.

Websites

- > Service Public Fédéral Emploi, Travail et Concertation sociale : <http://www.emploi.belgique.be/>
- > Office national de sécurité sociale : <http://www.rsz.fgov.be/fr/home>
- > Office national de sécurité sociale des administrations provinciales et locales : <http://www.rszppo.fgov.be/index.htm>
- > Institut des Comptes nationaux : http://inr-icn.fgov.be/Inr_Icn_home_fr.htm
- > Conseil National du Travail : <http://www.cnt-nar.be/>
- > Conseil Central de l'Economie : <http://www.ccecrb.fgov.be/>
- > CESW : <http://www.cesrw.be/>
- > SERV : <http://www.serv.be/serv>
- > WSR : <http://www.wsr-dg.be/>
- > CESRB : <http://www.esr.irisnet.be/>
- > Unisoc : <http://www.unisoc.be/new/FR/home/>

- > Verso : <http://www.verso-net.be/>
- > UNIPSO : <http://www.unipso.be/>
- > CBENM : <http://www.bcspo.be/>
- > AnikoS : <http://www.anikos.be/>
- > Fe-Bi : <http://www.fe-bi.org/fr/home>
- > APEF : <http://www.apefasbl.org/>
- > VSPF : <http://www.vspf.org/>
- > CSC : <http://www.cne-gnc.be/non-marchand>
- > SETCA (FGTB) : <http://www.setca.org/secteurs/pages/non-marchand.aspx>
- > CGLSB : <http://www.cgslb.be/secteurs/non-marchand/>



www.unipso.be
unipso@unipso.be

Main office

Square Arthur Masson, 1 – boîte 7
5000 Namur
☎ 081/24.90.20

Brussels office

Rue du Congrès, 37-41 – boîte 3
1000 Bruxelles
☎ 02/210.53.00