

BELGIAN NATIONAL COLLECTIVE LABOUR AGREEMENT ON NEW TECHNOLOGY

The Belgian National Labour Council is the highest level of bargaining for employers and unions to come to agreements on wages and working conditions. These Collective Labour Agreements (CLA) take effect by royal decree and are binding for every private company that employs workers in the country.

A CLA nr. 39 of December 13th 1983 deals with the information and the consultation concerning the social consequences of the introduction of new technologies.

It is applicable to the companies with an average of at least 50 workers in the calendar year before the period during which the information (see below) must be provided.

When the employer decides to invest in a new technology and when this investment has important consequences on employment, organization of work or working conditions, he is obliged to:

- inform in writing, at least 3 months before the beginning of the introduction of the new technology, about the nature of this technology, about the circumstances that justify the introduction and about the nature of the social consequences;

- consult the representatives of the workforce about these consequences.

In this respect, "important collective consequences" must be understood as "when at least 50% and at least 10 workers belonging to a certain professional category will be concerned by these consequences". Those figures must be calculated globally for all categories involved if those categories comprise less than 100 workers together.

The "beginning" of the introduction can be either a visual change or a modification of the working conditions or the organization within the company.

"New" must be assessed in comparison with what existed before in the company. The "involved" workers are those who have to use the new technology in modified working conditions, or must undergo a turnover or a dismissal. For the workers involved, the consequences can be negative as well as positive.

The written information must concern the nature of the new technology, the economic, financial or technical factors that justify the introduction, the nature of the social consequences and the time-limit for the introduction. Only if the mentioned factors could seriously harm the company, the employer cannot be obliged to provide that information in writing.

The information must be provided to the works council or, in default, to the workers' representatives.

The consultation is related to:

-the prospects with regard to the employment of the workforce, the structure of this employment and the intentions concerning social measures;

-the organization of work and the working conditions;

-the health and safety of the workers;

-the qualification and the possible measures regarding training and retraining of the workers.

This consultation takes place within the works council, the committee for prevention and protection or with the union delegation, depending on the subject treated.

The persons involved in this consultation have to keep the received information secret.

If the employer doesn't comply with these rules, he is not allowed to put an end to a labour contract, except for a reason outside the introduction of the new technology concerned. The employer has to prove the reality of this reason, if the dismissal occurs during the period starting when he should have transmitted the information and ending 3 months after the new technology has been put into operation.

On the other hand, if the dismissal takes place outside this period, the worker himself has to prove that his dismissal was a consequence of the new technology.

When the employer nevertheless dismisses a worker, he has to pay a lump sum, corresponding to 3 months gross salary.

This CLA is often completed and made more effective by CLA's negotiations on a lower level, i.e. on the level of a sector or a company. The weak point of this CLA is that an employer cannot really be forced to start the information and bargaining procedure, even when he starts to dismiss workers.

That is why on a national level our union is currently drawing up a set of concrete proposals to update and actualize the possibilities for workers' control on automation and digitalisation via social dialogue. Among other proposals, the aim is that the CLA nr 39 could become a lever for real union control in the companies.
