

Questionnaire on Reforming the Legal Status of Teachers in the Flemish Community of Belgium

Evelien Timbermont*

General remark:

Please note that the competence concerning the legal status of the teaching staff in Belgium transferred (at least partially) to the Communities as a result of the Constitutional Reform in 1988.

The following questions are answered taking into account the regulations in force at the level of the Flemish Community. They are mainly focused on the applicable rules in primary and secondary education, although generally these rules also apply to the other educational levels in a (slightly) modified version taking into account the specificities of each educational level.

I. Which categories of teachers are distinguished in your country?

(Please mention the legal norms and law)

In Belgium, several categories of teachers exist. The difference is based upon the educational network in which they are employed, i.e. community education, subsidized public education and subsidized free education.

It is also possible to classify teachers according to the educational level in which they are employed, for example primary school, college or university.

Legal norms - see: Decree of 27 March 1991 concerning the legal position of certain staff of the Community education, BS 25 May 1991.

Decree of 27 March 1991 concerning the legal position of certain staff of the subsidized education and the subsidized pupil guidance centre, BS 25 May 1991.

Decree of 13 July 1994 concerning the colleges in the Flemish Community, BS 31 August 1994.

Decree of 12 June 1991 concerning the universities in the Flemish Community, BS 4 July 1991.

Further abbreviated as ‘basic decrees’.

II. Which qualifications (diplomas) are required for each respective category?

Are there any other requirements to be fulfilled (nationality, residence)?

(Please mention the legal norms and law)

In general the teachers must have certain certificates of proficiency (i.e. a basic diploma, a certificate of teaching competence and/or useful experience).

In most cases teachers obtained a professional bachelor earned at a college (i.e. by following an integrated teacher program, or a specific teacher education program). There is also the possibility of

* National Research University Higher School of Economics.

following a specific teacher education program (i.e. a degree from a university, an education center for adults or a college after a having obtained a higher education diploma or a diploma of adult education).

Legal norms - see a.o.: Decision of the Flemish Government concerning the certificates of proficiency, pay scales and salary systems in regular elementary education, BS 27 February 1991.

Circular d.d. 14 June 2004 concerning certificates of proficiency in the regular nursery-, primary and elementary education.

Decision of the Flemish Government of 14 June 1989 concerning the certificates of proficiency, pay scales, the performance system and the salary system in the secondary education, BS 31 August 1989.

Circular d.d. 17 October 1997 concerning useful experience as certificate of proof for education staff.

III. What is the nature of the teacher's employment contract (public, private, %)?

Are teachers considered civil servants? (Please mention the legal norms and law)

Teachers in community education and subsidized official education are unilaterally appointed and are considered as civil servants. The teaching staff in subsidized free education is employed by an employment contract. Thus they should be considered as employees. Due to various ambiguities in the legislation, however, there is still a lot of discussion about the status of the teaching staff in the subsidized free education. The question arises whether - if any - labour laws apply to them.

Legal norms - see: Basic Decrees.

114

IV. Who is the teacher's employer (state, local community, specific educational body)?

Who pays the teacher's wages? (Please mention the legal norms and law)

The employer of the teacher is the organizing authority, although the wages are often paid by the Flemish Ministry of Education and Training.

Legal norms - see a.o.: Basic Decrees

Decision of the Flemish Government of 24 July 2009, BS 13 October 2009.

Decree of 13 July 2001 concerning education -XIII- "Mozaïek", BS 27 November 2001 (Chapter IX)

V. How are teachers recruited?

Teacher apply to the school board or the school directorate of the institution of their choice. They should therefore directly contact the schools, school boards, school groups or educational networks.

VI. Is a permanent appointment as a teacher possible?

Under what conditions?

Yes, if the teacher meets certain conditions (i.e. proves that she/he has sufficient working days within a certain reference period as a teacher, if he/she has applied for this position, etc) .

Also see next question.

VII. What are the career possibilities of a teacher? (salary, promotion?)

(Please mention the legal norms and law)

Three major categories can be distinguished in a teaching career in primary and secondary education. First, the temporary appointment of limited duration (TLD), second the temporary appointment of continuous duration (TCD) and finally the permanent appointment (PA).

The career of a teacher starts with the TLD in which teaching assignments are awarded for a part of the school year or for an entire school year. Before a teacher can be appointed as TLD priority must be given to teachers with a PA status or a TCD status.

A teacher is temporarily appointed for continuous duration if she/he meets certain conditions (i.e. a certain number of seniority days over a reference period, etc.). A teacher with a TCD status may be appointed over several school years.

To become permanently appointed a teacher should meet various conditions (i.e. in terms of nationality, evaluation, seniority, etc.). Once tenured the teachers with a PA status can enjoy a number of additional benefits (such as an entitlement to public pensions, access to certain specific systems of early pension or leave, etc.)

Legal norms - see a.o.: Basic decrees

Circular d.d. 6 June 2003 concerning the temporary appointment of continuous duration.

Circular d.d. 18 July 2003 concerning the elementary education landscape.

Circular d.d. 29 November 1999 concerning permanent appointment - procedure, conditions and communication to the Ministry of Education and Training.

VIII. Can teachers be transferred to another school (voluntarily, involuntarily?).

Under what conditions?

(Please mention the legal norms and law)

Yes, but the school board must do everything to avoid relocation. The seniority determines who will be transferred. The teacher needs to be redeployed within the same post, profession or specialty. The teacher must accept the redeployment. If redeployment is not possible, the teacher must be employed in a different post. In some cases the teacher should accept the transfer.

Legal norms - see a.o.: Decree of 9 April 1992 concerning education III, BS 16 mei 1992. (Chapter II) Decision of the Flemish Government of 29 April 1992 concerning the partition of relations, posting for lack of jobs, redeployment, re-employment and awarding half-pay or redundancy allowance, BS 1 July 1992.

Circular d.d. 28 July 2003 concerning the redeployment and re-employment regulation for the organizing bodies and the non-tertiary education staff.

IX. Is a part-time teaching job feasible?

Under what conditions?

(Please mention the legal norms and law)

Yes, see for example question 12.

X. Can a teaching job be combined with other paid activities (e.g. as a self-employed person)?

Under what conditions?

(Please mention the legal norms and law)

In general a teaching job can be combined to a maximum of 140% with other paid activities within education and with an activity outside education without limitations. Any type of activity is allowed (such as a salaried activity, a self-employed activity, etc.). Exercising an additional function has no effect on the salary teachers receive.

Legal norms - see a.o.: Decision of the Flemish Government of 3 May 1995 establishing the list of other professional activities of remunerated activities which take a large part of time for a member of the teaching staff working in colleges in the Flemish Community, BS 1 September 1995.

Decision of the Flemish Government of 5 May 1995 establishing the list of other professional activities of remunerated activities which take a large part of time for a member of the academic staff, BS 1 September 1995.

Circular 25 October 2005 concerning the cumulation.

116

XI. Do teachers receive in-service training?

(Please mention the legal norms and law)

Yes, for example by 'educational workshops' for teachers in primary and secondary education organized during the school year.

Legal norms - see a.o.: Decision of the Flemish Government of 17 April 1991 in order to organise the school year in primary and part-time education organised, recognised or subsidised by the Flemish, BS 11 July 1991.

XII. Is a leave of absence possible?

For what reasons (sabbatical, vacation, educational leave, leave for social reasons, medical reasons,...)?

(Please mention the legal norms and law)

Yes, there are several possibilities:

- Absence for reduced performance (i.e. social or family problems, when reaching the age of 50 or having two children under the age of 14 years) - possibility to work less (at least one hour per week).

Legal norms - see a.o.: Decision of the Flemish Government of 26 April 1990 concerning the absence for reduced performance legitimate by social of family reasons and absence for reduced performance for personal motives in the benefit of education staff and the pupil guidance centres staff, BS 25 July 1990.

Circular d.d. 14 November 2000 concerning the absence for reduced performance legitimate by social of family reasons and absence for reduced performance for personal motives in the benefit of education staff and the pupil guidance centres staff.

- Absence for reduced performance (i.e. personal motive (for any reason), when reaching the age of 50 or having two children under the age of 14 years) - possibility to work less (at least one hour per week). Unlike the absence for reduced performance social or family problems aren't required in order to apply this type of leave.

Legal norms - see a.o.: Circular d.d. 14 November 2000 concerning the absence for reduced performance legitimate by social of family reasons and absence for reduced performance for personal motives in the benefit of education staff and the pupil guidance centres staff.

- Career interruption (full-time, part-time, 1/5) in order to care for children, to follow a professional education, to provide medical assistance to a seriously ill family member, to develop as an independent or to provide palliative care.

Legal norms - see a.o.: Decision of the Flemish Government of 9 September 2011 concerning the career interruption for education staff and of pupil guidance centres staff, BS 5 December 2011.

Decision of the Flemish Government of 24 May 2002 concerning the interruption of the colleges staff careers in the Flemish Community and the Maritime Academy, BS 7 September 2002.

- Parental leave (if the child is younger than 12 years) - full-time, part-time or 1/5;

Legal norms - see: Decision of the Flemish Government of 9 September 2011 concerning the career interruption for education staff and for pupil guidance centres staff, BS 5 December 2011.

- Posting for personal reasons;

Legal norms - see: Decision of the Flemish Government of 16 October 2009 concerning the posting for personal reasons for education staff, BS 25 November 2009.

- Leave for assignment (i.e. in the importance of education);

Legal norms - see: Decree of 4 July 2008 concerning education XVIII BS 1 September 2008. (Article XI.8)

XIII. Is there a specific liability for teachers?

(Please mention the legal norms and law)

Yes, see article 1384, fourth paragraph of the Belgian Civil Code.

XIV. What is the disciplinary status of teachers?

Is there a specific teacher's ethics?

What are the disciplinary sanctions?

(Please mention the legal norms and law)

The ethical code is different for the teaching staff in each education network and education level.

Also a specific evaluation and disciplinary mechanism is provided within each network

The disciplinary sanctions in primary and secondary education are the following: a reprimand, the deduction of salary, the suspension on disciplinary action, posting, restoring to a temporary assignment, returning in rank or postponing a permanent appointment, dismissal and finally deposition.

Legal norms - see a.o.: Basic Decrees

Decision of the Flemish Government of 22 May 1991 on the evaluation, measures of order and discipline in the community education, BS 11 April 1992

Decision of the Flemish Government of 22 May 1991 on the preventive suspension and discipline, as well as to the dismissal of some temporary employees in the subsidized education and subsidized pupil guidance centres.

Decision of the Flemish Government of 14 December 2007 concerning the procedure on appeal after evaluation with final conclusion "insufficient" and on the functioning of the Board of Appeal, BS 24 January 2007.

XV. What reforms on the status of teachers are planned taking into account the financial constraints in the sector?

118

(Please mention the legal norms and law)

Savings were made in education, but the teaching staff was not (significantly) affected.

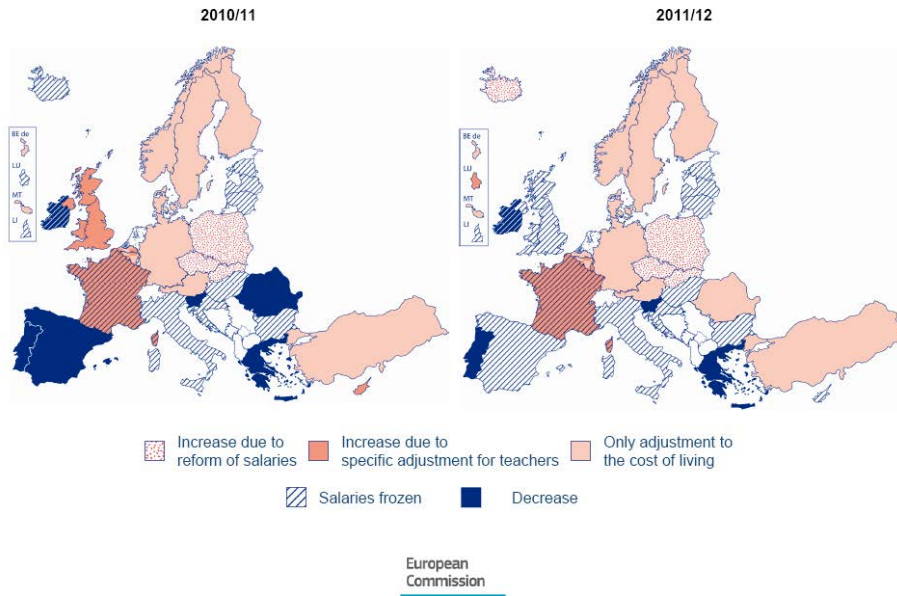
XVI. How does the government deal with the problems of teaching as becoming an aging profession and how will it make the teaching profession attractive for younger teachers?

(Please mention the legal norms and law)

The profession itself is undervalued. This is characterized by a decreasing number of students who choose to become a teacher. Furthermore, a lot of teachers leave the educational system after about five years. In recent years, a shortage of teachers has occurred. The government has promised to promote the profession a few years ago, but so far no real measures have been taken.

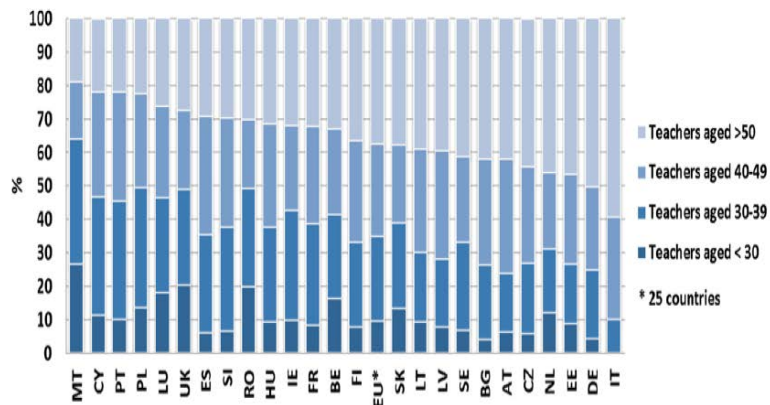
XVII. Background Information

There are financial constraints in the sector Evolution of teacher salaries compared with the previous year



Teachers are an ageing profession in most countries

Age distribution of teachers in lower and upper secondary, 2010



Source: Eurostat, UOE; in Eurydice Key Data on Education, 2012