

Belgian Social Security Facing the Coronavirus Crisis¹

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1. The first important sanitary measures to limit the spread of the coronavirus were adopted in Belgium in March 2020. The authorities decreed a general lockdown throughout the country. This was extended until June, when the measures were significantly relaxed. Due to a further exponential increase in the number of infections and hospitalisations, a second lockdown was imposed from October. At the time of writing (15 March 2020), the country is cautiously moving towards a gradual “deconfinement”.

As in many countries, these measures have led to serious economic difficulties. Social security has been mobilised on several fronts to mitigate the consequences. Two schemes in particular were at the forefront: temporary unemployment benefits for waged workers and the “droit passerelle” (bridging right), a sort of equivalent to unemployment insurance for the self-employed. Our report focuses mainly on them (I.). Other important measures have been adopted, notably in the field of ordinary unemployment benefits and social assistance. These will also be presented, in a more succinct manner (II to V). In conclusion, some reflections are proposed on the consequences of the crisis for the future of Belgian social security.

I. Income support for temporarily unemployed workers

2. The measures taken to contain the spread of the epidemic have been preventing many workers from working. Their economic security is undermined, since, in the absence of their performance (i.e. working), their employer is relieved from its reciprocal obligation to pay their wages. However, for a large number of these workers, the Belgian legislator, like a large proportion of its European counterparts, has preferred to treat the absence of work as a suspension of the contract due to *force majeure*. This has two kinds of implications. Firstly, the periods not worked are not counted as annual holidays or treated as an anticipation of public holidays; nor will waged workers have to compensate for them through additional work once the crisis is over. Secondly, the Welfare State ensures that their income is supported through a derogatory temporary unemployment scheme. Not only are the conditions for accessing benefits eased and the formalities simplified, but the amounts granted are higher than in the ordinary regime. We will present the temporary unemployment scheme implemented during the crisis in a first part (A.).

3. The crisis also affected self-employed workers. Some of them experienced a sharp drop in income, while others were forced to stop their activities temporarily due to the health measures (e.g. restaurant and bar owners, artists and other workers in the cultural sector, hairdressers, etc.). The support of the Belgian social security system for the self-employed has put the spotlight on a little-known scheme, the “bridging right”. This is a kind of modest

¹ This report was written in March 2021 for the research group “The New Challenges of Social Security” established within the International Society of Labour and Social Security Law (ISLSSL) and led by Prof. Kurt Paerli and Masahiko Iwamura. The Final Report of the research group was presented in September 2021 at the XXIII World Congress of the ISLSSL in Lima, Peru.

unemployment insurance that self-employed workers can benefit from when certain circumstances force them to suspend or stop their professional activity.

Created in 1996 and extended by successive amendments, the bridging right was very rarely used until the pandemic brought it out of its anonymity: from an average of 650 self-employed claimants and 350 compensated per year until 2019, the number of beneficiaries rose to 350,000 in 2020, i.e. half of all the fully self-employed workers in Belgium. This spectacular increase can also be explained by a considerable relaxation of the conditions of access. The crisis has indeed highlighted the imperfections of the instrument. Significant changes were made to support the self-employed during the health crisis, a small part of which is expected to continue after the end of the covid-19 epidemic². We will present this bridging right in a second part (B.).

4. These two forms of income support for workers have proved to be very effective overall, but are not without their flaws or limitations. These are discussed in a third section (C.).

5. It should be noted that statutory civil servants have not been the target of any income support measures. This is because they draw protection from the very legal form of their employment relationship with the public authority against the risk of the source of their professional income drying up. For this category of workers, the protection against pecuniary consequences of unemployment is internal to the legal framework of the employment relationship and is not provided externally by a social security system. It was therefore not necessary to mobilise social protection institutions for them.

A. Temporary unemployment benefits

1. General presentation

6. In Belgian law, a temporary unemployed waged worker is an unemployed worker who, unlike a fully unemployed person, is still bound by an employment contract, but whose contract is partially or totally *suspended*³. There are many possible causes for the suspension of the employment contract. They are listed in the law of 3 July 1978 on employment contracts, which envisages, for example, a technical accident occurring in the company (art. 49), bad weather (art. 50) or the closure of the company for annual holidays (art. 28, 1°).

The regulation of temporary unemployment benefits usually derogates from several obligations or central principles of the regulation of “full unemployment” benefits, i.e. those enjoyed by unemployed persons whose employment contract has ended. Firstly, temporary unemployed are exempt from the contributory obligation⁴, i.e. the obligation to have worked and thus contributed to the financing of the system by paying social security contributions for a sufficiently long period. In 2016, however, a probationary obligation was introduced in cases of temporary unemployment due to lack of work resulting from economic causes (“economic unemployment”), apparently on the grounds that its absence led to fraud and abuse⁵. Secondly, the temporary unemployed are exempt from the obligation to accept any suitable job offered to them (what the unemployment regulations call the passive availability obligation) for three months in the case of *force majeure* unemployment or for six months in the case of economic

² D. DUMONT, « Quelle couverture sociale pour les indépendants au “chômage” ? Tirer les leçons de l’échec du droit passerelle », *J.T.T.*, 2020, vol. 1363-1364, n° 9-10, pp. 168-179.

³ Article 27, 2°, a), of the Royal Decree of 25 November 1991 regulating unemployment.

⁴ Article 42bis of the Royal Decree of 25 November 1991 regulating unemployment.

⁵ A. MECHELYNCK et J.-F. NEVEN, « Un renforcement du chômage temporaire pour tous les travailleurs ? Certains travailleurs atypiques privés à la fois de travail et du chômage temporaire », *J.T.T.*, 2020, vol. 1363-1364, n° 9-10, p. 159.

unemployment when the worker is a “blue collar”⁶; similarly, they are exempt from the obligation to actively look for a job⁷. Finally, unlike full unemployment benefits, temporary benefits are not degressive: they are and remain equal to 65% of the reference pay throughout the whole period of unemployment⁸, i.e. the highest amount of benefits received by a fully unemployed person during the first three months of unemployment⁹.

7. During the crisis, temporary unemployment was mobilised in two forms: economic unemployment and temporary unemployment due to force majeure, the latter being the most widely used. In both cases, specific, partly provisional, arrangements were made to facilitate their mobilisation and to improve somewhat the situation of the workers concerned. These are presented below.

8. Before going into this legal presentation, it should be noted that the temporary unemployment scheme, whether “economic” or due to “force majeure”, has a real economic utility. On the one hand, on the microeconomic level, it allows the contractual link to be maintained, which benefits both parties to the contract; since the worker keeps his job while receiving a replacement income, while the employer, relieved of the financial burden of wages, can, once the suspension is over, resume his activity more quickly with the same workforce. On the other hand, from a macroeconomic point of view, temporary unemployment supports purchasing power and thus plays a stabilising role in the economy.

2. Crisis adjustments

9. Access to temporary unemployment has been greatly facilitated to cope with the crisis and benefits have been made more generous. The sequence as it has unfolded up to now (15 March 2021) can be described in four phases.

a. Adoption of a residual economic unemployment scheme for employees

10. On 18 March 2020, the National Labour Council (a social consultation body established at the inter-professional level) adopted a collective labour agreement (CLA) no. 147, in principle in force until 30 June 2020, establishing a residual regime of economic unemployment for employees so that all employees can access this form of temporary unemployment (normally, collective agreements authorising and organising economic unemployment must be concluded at the level of the sector of activity or the company). For blue-collar workers, the residual regime was already provided for by the law of 3 July 1978 on employment contracts. This CLA no. 147 has been extended by CLA no. 148 until 31 December 2021. It provides for an additional daily amount to be paid by employers of EUR 5.63.

b. Administrative instructions of the NEO opening the doors to temporary unemployment due to force majeure

11. On 20 March 2020, the National Employment Office (“Office national de l’emploi”, ONEm; the institution that administers unemployment insurance) adopted administrative instructions stating that “all temporary unemployment due to the coronavirus can be considered as temporary unemployment due to force majeure”. On the other hand, the ONEm also greatly

⁶ Articles 34 and 35 of the ministerial decree of 26 November 1991 on the modalities of application of the unemployment regulation.

⁷ Article 58, § 1 *a contrario* of the Royal Decree of 25 November 1991 regulating unemployment.

⁸ Article 114, § 6 of the Royal Decree of 25 November 1991 regulating unemployment.

⁹ In Belgium, full unemployment benefits are calculated in three degressive phases; to return to the first phase after a period of work - a unemployed person returns to work for a time and then becomes unemployed again - it is necessary to have worked for at least 12 months out of a reference period of 18 months (Article 116, § 1, para. 1 of the Royal Decree of 25 November 1991).

simplified the procedures for granting benefits from that date. These administrative simplifications meant that during the first containment, the path of unemployment for *force majeure* was largely preferred to that of economic unemployment.

12. This flexible interpretation by the ONEm of the notion of *force majeure* for the benefit of all companies was applied between 13 March (retroactively) and 31 August 2020.

c. Relaxation of temporary unemployment benefits scheme by Royal Decree

13. On 30 March 2020, the King (i.e. the federal government) adopted a decree providing for various derogatory measures regarding temporary unemployment for the benefit of all employers and waged workers¹⁰. Some of these had already been announced by the ONEm; the Royal Decree gave them a legal basis. This decree was supposed to be in force until 30 June 2020, but was finally extended until 31 August 2020 by a Royal Decree of 15 July 2020 with retroactive effect¹¹.

14. After 31 August, the derogation measures continued to apply, but only to “particularly affected companies and sectors”. These could continue to benefit from the relaxed regime until 31 December 2020. The companies concerned were those that could prove at least 20% of days of temporary unemployment in the second quarter of 2020. The sectors concerned were determined by the Minister for Employment from among those sectors whose economic activity and employment had fallen significantly as a result of the measures taken to limit the spread of the coronavirus¹². These sectors included aviation, tourism, the socio-cultural sector, hotels and restaurants, taxis, etc.

15. The derogatory measures, which were provisional but applicable for a longer period to companies and sectors particularly affected by the crisis, concerned three points. Firstly, access to economic unemployment was facilitated: the usually applicable contributory condition, i.e. the requirement to have contributed for a certain period, was suspended. As a reminder, this condition is never required in the case of *force majeure* unemployment.

Secondly, the amount of benefits has been increased by several means: benefits have been raised to 70% of the reference salary, instead of the usual 65%; a supplement of EUR 5.63 per day, payable by the ONEm, has been granted to unemployed persons for reasons of *force majeure*, but only until 31 August (a supplement payable by the employer is always provided in the case of economic unemployment); the minimum amount of the daily temporary unemployment benefit has been increased from EUR 51.62 to EUR 55.59. During this period, the maximum and minimum amounts of benefits were thus equivalent to a maximum monthly amount of “net” EUR 1763.58 and a minimum monthly amount of “net” EUR 1353.

Thirdly and finally, the procedure for claiming benefits was greatly simplified. In particular, the application for benefits could be signed by the paying agency on behalf of the unemployed person, while in case of an incomplete file the unemployed person could still apply for provisional benefits. Furthermore, the employer was exempt from issuing a control form to his worker who had become temporarily unemployed, and the latter was exempt from the obligation to be in possession of this form.

¹⁰ Royal Decree of 30 March 2020 to adapt the procedures for temporary unemployment due to the Covid-19 virus (...).

¹¹ Article 1 of the Royal Decree of 15 July 2020 extending the measures taken with regard to unemployment in the context of the fight against the spread of the COVID-19 coronavirus (I).

¹² Article 15 of the Royal Decree of 15 July 2020 extending the measures taken with regard to unemployment in the context of the fight against the spread of the COVID-19 coronavirus (I).

d. Restarting the summer measures following the autumn new lockdown

16. While health measures had been relaxed during the summer, Belgium underwent a second lockdown from October 2020: social contacts reduced to a strict minimum, non-essential shops closed, compulsory teleworking, distance learning, etc. On 6 November 2020, the federal government announced that it would reactivate the summer measures for the benefit of all workers in all sectors. This decision was implemented by a Royal Decree of 22 December 2020 with retroactive effect to 1 October¹³. On the latter date, the restriction of the derogation regime to the sole benefit of “particularly affected” companies or sectors ended. The flexible interpretation of the concept of *force majeure* by the ONeM and the simplified procedure have been reactivated, as has the suspension of the contributory period for economic unemployment. All these measures have been reactivated until 31 March 2021.

17. The increase in temporary unemployment benefits to 70% (instead of 65%) of the reference salary and the increase in minimum benefits were still in force (until 31 December 2020) and have also been extended until the end of March 2021 for everyone.

B. The bridging right

1. General presentation

18. As a kind of functional equivalent of the unemployment insurance for waged workers, the bridging right is intended for self-employed persons who have to suspend or stop their activity due to certain circumstances¹⁴. It provides the self-employed worker, on the one hand, with a flat-rate replacement income (i.e. not linked to past professional income) of approximately 1300 or 1600 euros depending on the family situation and, on the other hand, with continued health care coverage and disability benefits despite the interruption of social security contributions. Among the circumstances that give access to the bridging right is the forced interruption of activity as a result of external circumstances; this refers to situations of the same type as those described as *force majeure* in temporary unemployment benefits scheme for waged workers. In order to actually benefit from the right, three conditions are normally required: to have paid contributions as a fully self-employed person for at least 4 quarters; not to be entitled to another replacement income (e.g. unemployment benefit) and having interrupted professional activity for at least one month.

19. There is an important limitation to this social security coverage, which does not exist with the unemployment insurance for waged workers: the self-employed can in principle only benefit from it for twelve months during their whole career while an unemployed person who is compensated by the waged worker’s scheme can receive benefits for an unlimited period of time.

2. Crisis adjustments

20. Like temporary unemployment, the bridging right was mobilised from the very beginning of the crisis. Numerous measures were adopted to improve its effectiveness. They are presented again in chronological order.

¹³ Royal Decree of 22 December 2020 extending and broadening the measures taken with regard to unemployment in the context of the fight against the spread of the COVID-19 coronavirus.

¹⁴ Law of 22 December 2016 introducing a bridging right for self-employed workers.

a. March 2020: creation of a “corona bridging right”

21. A provisional *ad hoc* bridging right was put in place by a law of 23 March 2020 which entered into force retroactively on the first day of the month¹⁵. This “corona bridging right” meets more flexible conditions than the usual regime.

The main relaxation is that the usual condition of complete interruption of activity for at least one month is replaced by a condition of complete interruption “following covid-19” for at least seven consecutive days. For sectors whose activity has been prohibited in whole or in part by ministerial decrees (typically restaurants and bars), the interruption may even be only partial and has not necessarily to be for seven consecutive days; for these sectors, therefore, access to the corona bridging right could not be wider.

A second important relaxation introduced from March 2020 consists of granting the financial benefit for the whole month even if the interruption in activity only lasted seven days. This should probably be seen as a way of supporting the economic fabric by providing a replacement income not closely modelled on proven periods of inactivity.

The third flexibility measure is that it is not necessary to have paid social security contributions for at least four quarters in order to be eligible for the corona bridging right; it is sufficient to be liable for contributions at the time of the interruption of the activity. This is equivalent to the exemption from the contributory period granted to waged workers for access to temporary unemployment.

Finally, the fourth and last relaxation introduced in March 2020 consists in the fact that the 12-month “credit” of bridging rights over a career is not debited from the “corona” benefits.

22. This first round of special “corona” measures for bridging right was initially planned for March and April 2020; it was eventually extended several times. For self-employed workers in sectors that were not forced to close or reduce their activities by ministerial order, the derogatory measures covered all interruptions of activity forced by covid between 1 March and 31 August 2020; these measures were not extended beyond that. On the other hand, for the sectors covered by the ministerial measures, the provisional scheme, which is even more flexible for them, has been extended until 31 December 2020.

b. April 2020: extension of beneficiaries beyond the fully self-employed

18. In a second step, by a Royal Decree adopted in April 2020 but retroactive to March 1st ¹⁶, the provisional bridging right for corona time was extended to partially self-employed (i.e. those who work at least half-time as employees or in the public service in addition to their self-employed activity) and to active retired self-employed persons, on condition that these two categories pay contributions at least equal to half the minimum contributions of the fully self-employed. Normally, only the latter are eligible for the bridging right.

The financial benefit granted exceptionally to these “part-time” self-employed persons corresponds to half of the financial benefit of the main self-employed. Logically, it can be cumulated with other replacement income (typically unemployment benefit) up to a certain ceiling: the sum of the bridging right and the other replacement income cannot exceed the

¹⁵ Law of 23 March 2020 amending the law of 22 December 2016 introducing a bridging right for self-employed workers and introducing temporary measures in the framework of COVID-19 for self-employed workers.

¹⁶ Royal Decree n°13 of 27 April 2020 amending the Law of 23 March 2020 amending the Law of 22 December 2016 establishing a bridging right in favour of self-employed persons and introducing temporary measures within the framework of COVID-19 in favour of self-employed persons, in particular as regards the extension to certain self-employed persons on a complementary basis and active pensioners.

amount provided for self-employed persons with family responsibilities, i.e. around EUR 1,600. If this ceiling is exceeded, the bridging entitlement is reduced accordingly.

c. June 2020: creation of an unconditional basic income for certain self-employed

19. In June 2020¹⁷ it was decided that self-employed who were obliged by ministerial order to stop or reduce their activities until at least the beginning of May could continue to benefit from the bridging entitlement even after the full resumption of activities, under one main condition: to demonstrate that in the last quarter before the application, the activity had decreased of at least 10% in turnover or orders compared to the same quarter in 2019. With the creation of this new avatar of the bridging right, sometimes called the “bridging right to support recovery”, a very special social benefit is introduced into Belgian law, since this measure amounts to granting an unconditional (or almost unconditional) basic income that can be fully cumulated with professional income, to sectors that were forced to close during the first confinement.

The bridging right to support recovery was opened on 1 June and was to last until 31 October. It was finally extended until 31 December 2020¹⁸.

d. November 2020: doubling of the bridging right for self-employed victims of the second lock-in

20. By a law of 24 November 2020¹⁹, the legislator granted a bridging right at twice the amount of the usual benefits to self-employed who (again) had to stop their activity because of the second lockdown imposed in October, as well as to those whose activities are dependent on the latter. This double bridging entitlement amounts to EUR 2,583.38 for a single self-employed person and to EUR 3,228.20 for a self-employed person with a family. The workers concerned were initially supposed to benefit from it for the months of October and November. The measure was finally extended until 31 January 2021²⁰, and a draft bill of 29 January 2021 foresees to extend it a new (and last?) time until 28 February.

e. December 2020: Adoption of a new provisional bridging right scheme

21. The creation of a new provisional scheme of bridging rights was decided by a law of 22 December 2020²¹, as a kind of reset of the system for the new year. The special corona bridging right is now organised in three pillars.

The first pillar is aimed at self-employed who are forced to suspend their activity because of the health measures. They are entitled to the financial benefit, which is reduced to its basic amount (approximately 1300 or 1600 euros depending on the family situation) if the forced interruption lasts at least fifteen consecutive calendar days. A shorter break entitles the person to half the amount. This first pillar is to cover the period from 1 February to 31 March, with the

¹⁷ Royal Decree n° 41 of 26 June 2020 amending the law of 23 March 2020 amending the law of 22 December 2016 establishing a bridging right in favour of self-employed workers and introducing temporary measures in the COVID-19 framework in favour of self-employed workers.

¹⁸ Royal Decree of 4 November 2020 amending the Act of 23 March 2020 amending the Act of 22 December 2016 establishing a bridging right in favour of self-employed persons and introducing temporary measures in the framework of COVID-19 in favour of self-employed persons.

¹⁹ Article 11 of the Act of 24 November 2020 on support measures in the context of the COVID-19 pandemic.

²⁰ Article 17 of the law of 22 December 2020 instituting various measures in favour of the self-employed in the context of the COVID-19 crisis.

²¹ Law of 22 December 2020 instituting various measures in favour of the self-employed in the context of the COVID-19 crisis.

King being empowered to extend the measure. However, a draft bill of 29 January 2021, already mentioned, provides for the postponement of its entry into force on 1 March 2021 following the extension of the doubling of the bridging right during the month of February. This first pillar therefore makes it possible, in brief, to temporarily derogate from the new method of calculating the bridging entitlement, which was adopted on a permanent basis in March 2020 (see below), and which consists of prorating the monthly amount according to the duration of the forced interruption (for reasons of any kind, not just because of health measures): 25% for an interruption of at least one week, 50% for a fortnight, etc. Under this new provisional first pillar, self-employed forced to suspend their activity by the authorities are entitled to 50% of the monthly amount as soon as they have a day's interruption during the month and get 100% if they have an interruption of more than 15 days. It should be noted that the measure is less generous than the double bridging entitlement adopted in November 2020, which it is intended to replace, and also than the measure adopted in March 2020 under which one week's interruption was enough to give entitlement to the full monthly benefit.

The temporary second pillar resembles an amended, more restrictive version, of the bridging right to support recovery introduced in June 2020. It is targeted at self-employed who face a sharp decline in turnover: self-employed who can demonstrate a decrease in turnover of at least 40% compared to the same calendar month of the reference year 2019 (instead of 10% over the quarter for the June measure) are entitled to the full monthly amount. As with the right to support recovery, there is no requirement for a break in activity. On the other hand, the benefit of this new temporary second pillar is subject to a reinforced condition of contribution to the financing of (and therefore of belonging to) the social status of the self-employed: the self-employed person must have paid his contributions for at least four quarters out of the sixteen preceding quarters or, if he cannot prove that he has been subject to contributions for more than twelve quarters, for two quarters out of the latter period. It should be remembered that until then, the benefit of the "corona" bridging right in force since March 2020 was open to any worker subject to the social status of the self-employed without any condition as to the duration of contributions. The right attached to this second pillar cannot be cumulated with the benefit provided by the first pillar. It came into force on 1 January 2021 for two months, with the King being empowered to extend it beyond 31 March 2021.

Finally, the third pillar focuses on self-employed persons who have to observe a quarantine or whose children (under 18 or disabled) have to stay at home due to compulsory isolation or to the closure of the school or institution they attend. Provided that the period of isolation of the self-employed person or their child lasts at least seven consecutive days, the entitlement is to the financial benefit of the bridging entitlement, calculated in accordance with the prorating adopted in March 2020 (see below). Like the second pillar, the third pillar applies in principle between 1 January and 31 March 2021, with the King having the power to extend it.

3. A permanent measure: the prorating of the monthly benefit

23. A reform adopted in March 2020 is intended to last beyond the crisis. From now on, access to the bridging benefit in case of an interruption of the activity for reasons beyond the control of the self-employed is allowed on a weekly basis, i.e. not only monthly anymore. The financial benefit corresponds to 25%, 50% or 75% of the monthly benefit depending on whether the interruption lasted 7, 14 or 21 continuous days. This is an important innovation. It is likely to make the bridging right more successful in the future (when all current crisis measures have ceased). The condition of having stopped working completely for at least one month was certainly one of the most important obstacles to accessing this right, which was so little used

before the pandemic: one month's absence from work for a self-employed person can often be fatal for its enterprise²².

C. Defects and limitations of crisis replacement income

23. Temporary unemployment benefits and bridging right have proven to be effective tools for managing the crisis; they have supported the purchasing power of nearly one and a half million workers (out of a population of eleven million) at the height of the crisis.

However, this safety net is not tightly meshed enough to support the most vulnerable workers. Temporary unemployment, based on the suspension of the employment contract, does not help workers on different types of contracts: fixed-term contracts, temporary work contracts or any other form of precarious contract. The pandemic has implied that these contracts have simply not been renewed. Without work, these waged workers do not necessarily qualify for regular full unemployment, given the short and/or discontinuous nature of their careers. The National Employment Office has tried, outside of any regulatory framework, to relax the conditions for granting temporary unemployment for certain atypical work situations, those which show that the employment relationship is of a certain duration. This initiative has not produced any tangible results²³. Similarly, because their income is exempt from social security contributions and taxes provided that they carry out their activity through an approved platform and that the annual income does not exceed a certain amount (6,250 euros in 2020)²⁴, platform workers do not benefit from any social security advantages in Belgium and therefore cannot claim temporary unemployment or bridging rights.

Unlike temporary unemployment benefits, the financial benefits granted under the bridging right are of a flat-rate type; their amount is identical per family category, without reference to the professional income usually received. This lack of link with the worker's normal lifestyle implies that it is not a "real" replacement income; it does not allow for the (relative) maintenance of income despite the suspension of professional activity, as would be the case with a genuine Bismarckian replacement income, which is the historical basis of Belgian unemployment insurance for employees, but rather consists of a minimum benefit aimed at preventing destitution, as would a universal Beveridgian benefit. In this respect, self-employed and waged workers are not in the same boat. This situation can be questioned at a time when the boundaries between legally subordinate work and self-employment are becoming blurred, to the extent that some predict they will disappear in the future.

II. Protection of the current or future situation of the socially insured

24. Another objective pursued by the public authorities has been to prevent the crisis from harming the current and future situation of the socially insured. On the one hand, the degressivity of the amount of full unemployment benefits for waged workers (which are unlimited in time in Belgium) has been frozen from 1 April 2020 until at least 31 December 2020, while the 36-month period during which young people who have not yet worked can receive unemployment benefits known as insertion benefits has been extended by nine

²² D. DUMONT, « Quelle couverture sociale pour les indépendants au "chômage" ? Tirer les leçons de l'échec du droit passerelle », *op. cit.*

²³ A. MECHELYNCK et J.-F. NEVEN, « Un renforcement du chômage temporaire pour tous les travailleurs ? Certains travailleurs atypiques privés à la fois de travail et du chômage temporaire », *op. cit.*

²⁴ Article 5ter of Royal Decree n° 38 of 27 July 1967 organising a status for self-employed.

months²⁵. In both cases, the reasoning of the authorities is probably that, since the labour market is (temporarily) in a bad state, the unemployed cannot be blamed for not finding a job and it would therefore be unfair to reduce or withdraw their benefits. On the other hand, and without being exhaustive, measures have been taken to neutralise the effects of temporary unemployment or interruption of self-employment on workers' future pensions, when the assimilation of periods of inactivity to actual work for the determination of pension entitlement was not already provided for by legislation — it is for example the case for statutory pensions for waged workers. The latter were in principle able to continue to build up a supplementary pension at the expense of their employer despite being temporarily unemployed, unless the employer expressly and quickly decided otherwise²⁶, while periods of bridging right between 1 April 2020 and 31 March 2021 are exceptionally treated as periods of work for the purpose of determining the statutory pension entitlement of self-employed²⁷.

III. Reinforcement of the social minima

25. Another measure adopted in the field of social security was the temporary increase of the social minima. The federal government decided to grant, for the months of July 2020 to at least March 2021, a “Corona bonus” to people receiving social assistance allowance, i.e. a residual replacement income granted on the condition that they demonstrate a lack of sufficient own resources²⁸. Disabled people living in poverty, elderly people living in precarious conditions and, more generally, anyone receiving social assistance is entitled to a monthly amount of EUR 50 in addition to the usual allowance during this period. In the same vein of strengthening social assistance in times of economic crisis, the federal government has granted several additional subsidies to the public social action centres, which manage and pay several social assistance allowances, including a subsidy of EUR 115 million for the payment of allowances and EUR 20 million to cover personnel and operating costs²⁹, as well as a subsidy of EUR 10 million to promote, among other things, the fight against psychological suffering resulting from social isolation³⁰. These subsidies may be mobilised until 31 December 2021.

IV. (Limited) recognition of covid19 as an occupational disease

26. Covid-19 has been recognised as an occupational disease for workers in critical sectors and essential services, provided that the occurrence of the disease was established during the period from 20 March 2020 to 31 May 2020³¹. The recognition of the occupational nature of

²⁵ Royal Decree of 23 April 2020 temporarily relaxing the conditions under which unemployed persons, with or without a business complement, can be employed in vital sectors and temporarily freezing the degressivity of full unemployment benefits.

²⁶ Law of 7 May 2020 on exceptional measures in the context of the COVID-19 pandemic with regard to pensions, supplementary pensions and other complementary social security benefits.

²⁷ Law of 22 December 2020 instituting various measures in favour of the self-employed in the context of the COVID-19 crisis.

²⁸ Royal Decree n° 47 of 26 June 2020 issued (...) with a view to granting a temporary premium to recipients of certain social assistance benefits.

²⁹ Royal Decree of 13 May 2020 creating a "COVID-19" subsidy for the target groups of public social action centres.

³⁰ Royal Decree of 24 December 2020 on measures to promote the psychological well-being of service users of public social action centres and to improve the application of preventive health measures.

³¹ Royal Decree n° 39 of 26 June 2020 amending the Royal Decree of 28 March 1969 drawing up the list of occupational diseases giving rise to compensation and laying down the criteria which exposure to occupational risk must meet for certain of them due to COVID-19.

covid-19 disease remains possible in the other sectors or after this period, but under more difficult conditions of proof.

V. Flexibility of social benefits to support labour supply

27. A series of temporary derogations were adopted to avoid labour shortages in certain sectors. These measures were quite broad in the spring of 2020 and were tightened up the following autumn. They concern both labour law (permission to work more voluntary overtime) and social security law³². In the latter area, they consisted in the authorisation of a greater than usual cumulation, and under relaxed conditions, between professional income generated in sectors qualified as vital and certain social benefits such as temporary unemployment benefits³³, retirement pensions³⁴ or the social integration income (which is a social assistance allowance granted on condition of not having sufficient resources)³⁵.

Conclusion

28. The first moment of the crisis, the one we have been experiencing since March 2020, is (paradoxically) a moment of intense and rich life for social security. It has been a long time since we have heard so many declarations of attachment to the Welfare State in the media. Perhaps the explanation lies in the fact that, unlike, for example, the previous crisis in 2008, the causes of the economic disaster that has befallen the population are easily identifiable (the global epidemic), and it is clear to everyone that they cannot be attributed to anyone's individual responsibility. In such a situation, collective solidarity is obvious. However, the future may be more difficult. The amount of money spent on supporting workers and the economy in general has increased the public debt. Once the crisis will be behind us, it will probably not be long before the jingles of fiscal austerity and its necessary structural reforms will be heard again.

29. The Belgian social security system as a whole has been responsive and appropriate to deal with the crisis. The administration of unemployment insurance has shown great flexibility in facilitating access to and payment of temporary unemployment benefits. The previously underused bridging right has been amended in an inventive and clever way to provide broad coverage to hundreds of thousands of people to whom the idea that their social status could be the basis for protection against "unemployment" (which, for some of them, would even take the form of an unconditional basic income) must have seemed strange until then. However, both schemes have also shown their limits. The personal coverage of temporary unemployment is far from perfect; workers with the most precarious labour law status escape its nets. As for the bridging right, the lump-sum nature of the financial benefit granted to the self-employed worker who suspends or ceases his or her activity prevents it from being considered as a real replacement income in the same way as that offered to waged workers.

³² F. KÉFER et Q. DETIENNE, « La covid et le travail en Belgique », *Cielo Laboral*, forthcoming (available at <http://hdl.handle.net/2268/257853>).

³³ Royal Decree of 23 April 2020 temporarily relaxing the conditions under which unemployed persons, with or without a business complement, can be employed in vital sectors and temporarily freezing the degressivity of full unemployment benefits.

³⁴ Law of 7 May 2020 on exceptional measures in the context of the COVID-19 pandemic with regard to pensions, supplementary pensions and other complementary social security benefits

³⁵ Royal Decree of 4 June 2020 amending the Royal Decree of 11 July 2002 on the general regulation of the right to social integration.

30. The authorities have also shown that they are taking note of the exceptional nature of the situation by adopting important social and political measures, such as freezing the degressivity of full unemployment benefits and extending the period of payment of integration benefits. These crisis adjustments run counter to the objectives of getting the unemployed back to work as quickly as possible, which have guided the reforms of the last ten years³⁶.

31. Will this crisis be the moment when Belgian social security will switch to new models? Several projects have been launched, at least in the mind of the public. We are thinking in particular at the reform of the “artist’s status” (which in reality consists of derogations from the general unemployment regulations for the benefit of certain workers in the cultural sectors), which covers a category of workers who have been particularly affected by the crisis. We are also thinking about the future of the bridging right: should it be deepened to make it the equal of unemployment insurance for employees? Should unemployment insurance not be made universal by making it applicable to all workers, regardless of the legal form in which they work? Some also see this crisis as an opportunity to finally move towards the introduction of a universal income. However, it is still too early to say what will really be left of this strange period.

³⁶ V. LEFEBVE, « Les réformes de l’assurance chômage (2011-2019) », *Courrier hebdomadaire du CRISP*, 2019, n° 2438-2439, p. 104.