



Cross-border Impact Assessment 2016

Dossier 7: Flexibilization of the Old-Age Pension Commencement Date Act



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Maastricht University

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Dossier 7: Flexibilization of the Old-Age Pension Commencement Date Act

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ITEM is an initiative of Maastricht University (UM), the Dutch Centre of Expertise and Innovation on Demographic Changes (NEIMED), Zuyd Hogeschool, the City of Maastricht, the Meuse-Rhine Euregio (EMR) and the Province of Limburg (NL).



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Preliminary remark: this Dossier is organised differently from the other Dossiers due to the fact that the legislative proposal on the Flexibilization of the General Old-Age Pension commencement date is still under preparation. Its plenary treatment is on the agenda for early November 2016. Nevertheless, the importance and potential effect of the Act for cross-border workers can be established based on this legislative proposal.

1. Background to the legislative proposal for the Flexibilization of the Old-Age Pension Commencement Date Act

In mid-February 2016, member of the Lower House of Parliament Norbert Klein submitted a legislative proposal to amend the General Old-Age Pensions Act and Participation Act in connection with the introduction of the option to begin payment of the pension under the General Old-Age Pensions Act earlier or later than the statutory retirement date, in part or in whole.¹ This legislative proposal, also known as the 'Wet flexibiliseren ingangsdatum AOW' (Flexibilization of the Old-Age Pension Commencement Date Act) opens the option to allow the statutory pension to begin up to five years earlier or later than the date on which the pension-entitled person reaches the statutory retirement age. According to the submitter, the proposal addresses the need of people to shape the transition between work and pension themselves.²

2. Potential effects of the proposal on cross-border workers

In response to the legislative proposal, ITEM has written a letter to the Standing Committee for Social Affairs and Employment, to draw attention to the position of workers who have built up both a Dutch AOW old-age pension and a foreign statutory pension.³ This group of workers, which includes migrant workers and cross-border workers, may benefit from the option of a flexible commencement date of the AOW old-age pension.

The position of cross-border workers in particular will be discussed below. This group of workers is confronted with different statutory retirement ages in the Netherlands, Belgium and Germany. As shown in the overview below, the Dutch AOW old-age pension has a later commencement date than the statutory old-age pensions in Belgium and Germany.

¹ *Kamerstukken II 2015/16, 34414, nr. 2* (Voorstel van wet van het lid Klein tot wijziging van de Algemene Ouderdomswet en de Participatiewet in verband met de introductie van de mogelijkheid het AOW-ouderdomspensioen geheel of gedeeltelijk eerder of later te laten ingaan (Wet flexibilisering ingangsdatum AOW)). (Legislative proposal by Member of Parliament Norbert Klein to amend the General Old Age Pensions Act and Participation Act in connection with the introduction of the option to begin payment of the pension under the General Old Age Pensions Act earlier or later than the statutory retirement date, in part or in whole (Flexibilisation of the Old-Age Pension Commencement Date Act).)

² *Kamerstukken II 2015/16, 34414, nr. 6, p. 1* (Memorie van Toelichting zoals gewijzigd naar aanleiding van het advies van de Afdeling Advisering van de Raad van State) (Explanatory Memorandum as amended in response to the Advisory Department of the Council of State).

³ The relevant passages and findings of this letter sent to the Standing Committee for Social Affairs and Employment have been included in this report.

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Country	Current statutory retirement age
Netherlands	65 years + 6 months
Belgium	65 years
Germany	65 years + 5 months

This implies that cross-border workers who built up a statutory pension in both the Netherlands and one of the other two neighbouring countries will have to wait a bit longer for their AOW benefits when they start receiving their foreign statutory pension. This may affect their income. The legislative proposal Flexibilization of the Old-Age Pension Commencement Date Act offers cross-border workers the option of aligning the commencement date of their Dutch AOW pension with the commencement date of their foreign statutory pension. Contrary to the current situation, this would allow cross-border workers to claim the benefits of their accumulated statutory pensions on the same commencement date.

Given the manner in which the Netherlands, Belgium and Germany have individually decided to raise their respective statutory retirement ages, this alignment issue will persist for cross-border workers in the future, as can be seen from the overview of future statutory retirement ages below.⁴

Future statutory retirement age	66 years	67 years
Country		
Netherlands	2018	2021
Belgium	2025	2030
Germany	2024	2031

⁴ The term 'alignment issue' has been derived from *Kamerstukken II 2011/12, 33046, 6, p. 17* (nota naar aanleiding van het verslag) (note on the report). This so-called 'alignment issue', causing potential loss of income for cross-border workers, was discussed during the parliamentary scrutiny of the *Wet verhoging pensioenleeftijd, extra verhoging AOW en flexibilisering ingangsdatum AOW* (Increased Pension Age, Additional Increase of the General Old-Age Pension (AOW) and Flexibilization of the Old-Age Pension Commencement Date Act).

The following calculation example, derived from the amended explanatory memorandum to the legislative proposal, further illustrates these alignment issues.⁵

Initial situation

(in accordance with the example and calculation method of the explanatory memorandum)

**Gross
amounts**

Standard AOW old-age pension for singles (100% accrual rate) excluding AOW income support and including holiday pay at age 66	€14,257.50
AOW old-age pension, early retirement by one year, i.e. AOW pension after gross reduction (of 7.2%)	€13,232.00

Possible situation of a cross-border worker

**Gross
amounts** **Explanation**

Resident of the Netherlands who spent 30 years of his active life in Belgium, equalling 40% AOW pension accrual.	€5,703.00	40% * € 14.257,50 (standard AOW pension for singles at age 66)
AOW old-age pension, early retirement by one year, i.e. AOW pension after gross reduction (of 7.2%)	€5,293	

Current situation at age 65

Situation at age 65 (presently) -> only a right to statutory pension accrued in Belgium -> annual gross amount

€14,400 Fictitious gross amount (based on a middle income in the Netherlands + incorporating the calculation method of statutory pensions in Belgium)⁶

⁵ *Kamerstukken II* 2015/16, 34414, nr. 6, p. 3-4 (Memorie van Toelichting zoals gewijzigd naar aanleiding van het advies van de Afdeling Advisering van de Raad van State) (Explanatory Memorandum as amended in response to the Advisory Department of the Council of State).

⁶ Explanation of the calculation of the Belgian statutory pension:
- Normal income in the Netherlands according to the Netherlands Bureau for Economic Policy Analysis (CPB) = EUR 36,000 (assuming this as the wages during the career years in Belgium).

The legislative proposal Flexibilization of the Old-Age Pension Commencement Date Act offers cross-border workers the option of aligning the commencement date of their Dutch AOW pension with the commencement date of their foreign statutory pension. Contrary to the current situation, this would allow cross-border workers to claim the benefits of their accumulated statutory pensions on the same commencement date.

As a result, they would no longer have to wait for the moment their accrued AOW old-age pension becomes payable. This implies that the cross-border worker in the calculation example below would receive both a Belgian statutory pension benefit and a Dutch AOW pension at age 65. Compared to the current situation, this would constitute an improvement in the cross-border worker's income position on the commencement date of the statutory pension.

<i>Possible future situation at age 65</i>	Gross amounts
Availability of accrued statutory pensions from both Belgium and the Netherlands at age 65	
-> Netherlands: 40% AOW accrual (of EUR 14,257.50) and taking into account a gross reduction of 7.2%	€5,293
-> Belgium: statutory pension	€14,400
Total amount of statutory pension receivable in the year of turning 65 (excluding compensation AOW premium)	€19,293

To assess the concrete effects of the legislative proposal, it is important to take into account the various factors that might influence the income position of cross-border workers after retirement. The variables used in the simple calculation example above may be different, after all: cross-border workers may be married instead of single and may have worked for either a longer or shorter period in Belgium and/or Germany than assumed in the example. Additionally, there is the possibility of cross-border workers having accrued an additional pension through a supplementary pension plan. Various practical scenarios are therefore imaginable.

- Calculation of accrued statutory pension rights per career year in Belgium, not taking into account the so-called revaluation coefficient and, assuming the person to be single, multiplied by 60%, based on the following applicable formula: $(\text{career year's wages} / 45) * (60\%)$
 Derived from: <<http://www.onprvp.fgov.be/NL/profes/calculation/paginas/default.aspx>>, last accessed on 8 June 2016.

3. Cross-border impact assessment

With the legislative proposal on the agenda of the Dutch Lower House of Parliament for plenary scrutiny in early November 2016, ITEM has found that the legislative proposal, the explanatory memorandum, nor the extensive treatment by the Standing Committee for Social Affairs and Employment have paid any attention to the potential effects of the legislative proposal on cross-border workers,⁷ despite the fact that two motions from 2009 and 2012 pointed out the importance of devoting lasting attention to cross-border issues.⁸ The so-called Thirty-Members' Debate in 2015 also stressed the importance of performing cross-border impact assessments, i.e. mapping the effects on border regions during the legislative process, while several political parties used the debate to express their wish to do so.⁹ It remains striking, nonetheless, that the letter sent by ITEM has not led the Standing Committee for Social Affairs and Employment to pay attention to the positive effects that the legislative proposal has for cross-border workers.¹⁰

4. Conclusion

Naturally, ITEM is very positive about performing a cross-border impact assessment in order to gain early insight into the concrete consequences of legislation and regulations. Had such an assessment taken place in the case of the Flexibilization of the Old-Age Pension Commencement Date Act, the legislator could have established that the legislative proposal on the flexibilization of the old-age pension commencement date might have positive effects for cross-border workers who have accrued both a Dutch AOW pension and a foreign statutory pension.

⁷ As regards inclusion in the agenda, see: Long-term agenda including the week 43 voting list; 2016-10-19. Accessible via <<https://zoek.officielebekendmakingen.nl/>>.

⁸ *Kamerstukken II* 2011/12, 33000 IXB, nr. 21 (Motie Bashir). This motion refers to, among others, the Weekers motion (*Kamerstukken II* 2009/10, 26834, nr. 26 (Motie Weekers)), proposed and adopted in 2009 regarding the importance of devoting attention to cross-border workers' issues.

⁹ *Kamerstukken II* 2014/15, TK50, 4 februari 2015 (Grenseffectentoets) (Cross-border impact assessment).

¹⁰ In spite of the response by the Standing Committee for Social Affairs and Employment to the letter sent by ITEM, which states that: "De commissie heeft besloten dat de leden uw brief desgewenst kunnen betrekken bij de behandeling van het voortel van wet van het lid Klein tot wijziging van de Algemene Ouderdomswet en de Participatiewet in verband met de introductie van de mogelijkheid tot het AOW-ouderdomspensioen geheel of gedeeltelijk eerder of later te laten ingaan (Wet flexibilisering ingangsdatum AOW) (34414)." (The Committee has decided that its members are free to involve your letter in the treatment of the legislative proposal by member Klein to amend the General Old Age Pensions Act and the Participation Act in connection with the introduction of the option to begin payment of the pension under the General Old-Age Pensions Act earlier or later than the statutory retirement date, in part or in whole (Flexibilization of the Old-Age Pension Commencement Date Act) (34414)).



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