



FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

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Belgium: Move to end blue-white collar divide

After three decades of debate the Belgian government has finally agreed with both sides of industry to end the two-tier treatment of blue and white collar workers.

This change has been forced on the government by the Constitutional Court which, back in July 2011, ordered that the current legal distinction between the two groups should be eliminated by July 8th 2013. Although this has prompted action, the agreement concluded on July 5th does not take effect until January 1st 2014 and it remains unclear whether employees could claim any redress for these delays. The deal also fails to cover all the areas of distinction since the calculation and payment of annual leave, wage and salary payments, short-time work, notice and guaranteed pay during sick leave are all still covered by former statutory obligations. These will therefore have to be resolved by the bipartite Labour Council this Autumn.

For a summary of the changes please visit the FedEE member knowledgebase.

Europe: Chess game with multiple opponents

Although trade union membership is on a long-term decline across much of Europe, the balance of power in the workplace is turning progressively against employers.

According to FedEE estimates (based on OECD data) union density has fallen in the EU, Switzerland and Turkey from 30% in 1999 to 23.3% today. This decline has been most evident in Germany, the Netherlands and many eastern European countries such as Poland and Hungary. The lowest union density remains, however, in France (7.9%) and Turkey (5.4%). In the face of these changes trade unions have merged and reorganised. Major influential unions have emerged such as Verdi in Germany and Unite in the UK. Furthermore, although unions now represent less than a quarter of EU workers, the European Trades Union Congress maintains its stranglehold on EU social policy.

Employees are also increasingly prepared to defend their individual employment rights. No-win-no-fee law firms are moving out of the workplace



accident arena to deal with all cases where there is a reasonable chance of financial return. The legal protection insurance market in Europe is now worth over 8bn euros in premium income and the biggest growth is in Bulgaria, Estonia, Poland and Slovenia. Moreover, in cases with substantial damages at stake, lawyers are increasingly looking to "after the event" insurance to cover litigation costs. The latest development has been the launch of LinEE, a new international network of law firms with the sole purpose of supporting employees and executive in pursuing cross-border legal claims.

Europe: Working time not a major factor in wealth generation

A review of working time in 2012, published by the Dublin-based Eurofound organisation, confirms that sharp contrasts continue to exist between European countries. For instance, the difference in working time between Finland (the country with the shortest average working hours) and Romania (where average working hours are longest) amounts to a total of 4.5 weeks per year. Similarly, the combined total of collectively agreed annual leave and public holidays varied from 40 days in Germany to 28 days in Estonia — a difference of over two working weeks.

But what advantage do longer work times give an economy? Last year, in terms of per capita GDP, Finland was 15% above, and Romania 51% below, the EU average. Similarly, Germany was 21% above, and Estonia 32% below, the EU average. The cultural acceptance of longer working hours may give some competitive advantage when companies are considering whether to invest in a country, but when combined with low wage rates it also encourages enterprises to invest in labour intensive working methods rather than automated processes.

Europe: Commission sets out stall for collective redress

The European Commission has decided to press ahead with the encouragement of legal reforms to allow groups to jointly seek damages through a system of class action.

Currently 16 of the EU's 28 member states have a mechanism in place to allow collective redress. The new EU recommendation tries to avoid the generation of frivolous claims and "abusive litigation" by stating a clear preference for open systems where claimants have to opt in to seek compensation. The opt out approach operating in Denmark, the Netherlands and Portugal, where claimants must elect not to be covered by a collective claim, does not have Commission backing — even though it is more favoured by both trade unions and consumer groups.

France: Further pressure on men to share maternity leave

One of the primary aims of a draft "men-women equality" law that has just been submitted to the French Cabinet is to encourage men to share maternity leave as well as take paternity leave.

As the law stands, women may take six months leave after the birth of their first child and three years after their second child. Under the proposed reforms entitlement will increase by six months after the first child — but only if the father is prepared to take the extra leave. The three years' entitlement after the second child will be reduced to two and a half years, unless the father takes the remaining six months. Moreover, companies that do not comply with gender equality requirements will find that they are excluded from public contract tenders.



Germany: Ruling on tax relief for posted worker travel costs

The German Federal Fiscal Court (BFH) has found that an employee who is required to live away from their main home during their working week may claim for tax relief in respect to travel expenses for weekly journeys to their main home — even when this journey was made at no cost to the individual. If the employer provides tax free travel grants or tax free means of travel, however, the value of these will reduce the tax allowance.

The dispute concerned a railway employee who, in his tax return, claimed the full allowance of €0.30/km for 48 journeys home. Only 11 of these journeys were made using his own car, while the other journeys were made by rail at no cost to the employee — who received free rail travel as part of his employment package. In the first instance the tax court ruled that the plaintiff could only claim for the expenses actually incurred. The Federal Fiscal Court, however, viewed this expense allowance to be independent of the mode of transport used and costs incurred, given that the legislation relating to it is intended to support and favour employers' sustainable travel policies.

The Federal Court has referred this case back to the lower tax court to set the amount of tax to be deducted from the expenses if travel is provided for free by the employer. [VI R 29/12]

Global: The eyes wide shut approach to HRM

The Renault automotive group has just signed a new global framework agreement with the IndustriALL trade union. The deal has been heralded by Renault's EVP for human resources as the outcome of "responsible social dialogue built over 20 years internationally." It follows hard on the heels of a similar deal concluded with the Italian power and gas company Enel.

It is now just a year since the International Metalworkers' Federation (IMF), International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) and International Textiles Garment and Leather Workers' Federation (ITGLWF) came together to form IndustriALL. The stated aims of the union are to "challenge the power of multinational companies" and "build union power to confront global capital".

Italy: Court exposes raw deal for the disabled

The European Court of Justice (ECJ) has ruled that the Italian government has failed to adequately transpose a Directive which aims to eliminate discrimination and related inequalities against people with disabilities.

According to the Court all member states must "adopt effective and practical measures, where needed in particular cases, for all persons with disabilities in the workplace". Not only was it held that Italian laws and government policies did not go far enough to integrate persons with disabilities into economic life, the laws actually allowed local authorities to bargain with employers - thereby relaxing the application of existing protective regulations.

Italy must now amend its laws, policies and practices in line with this ECJ decision or face heavy financial penalties. [Case C-312/11]

Russia: Dubious gamekeepers out poach the poacher

Russia's state Duma (parliament) has passed a draconian measure which aims to combat money laundering, tax evasion and the funding of illegal activities. Although state authorities will now be able to access the bank accounts of companies, entrepreneurs and other individuals, they will only officially be able to do so with the authority of a court order.



Whilst these new powers have generally been welcomed, they do create the potential for even greater abuse of position, malfeasance and corrupt practices by the police and tax authorities. With an estimated 100,000 Russian business people in prison or facing criminal sanctions because of the criminalising of regular business activities through the application of defunct Soviet laws, there is now little confidence in Russia's law enforcement authorities. A recent amnesty for imprisoned entrepreneurs has also been heavily watered down and will only apply if those wrongly accused of crimes admit their guilt.

Sweden: Storm in teacup ends in a drenching

A recent Labour Court judgment in Sweden illustrates how minor issues can escalate in significance and lead to a judicial conclusion that the company concerned "has made itself guilty of collective crimes".

The case in question arose when two delivery drivers claimed they were being denied the opportunity to take proper meal breaks and eat with colleagues at their company premises because they were travelling for around four hours a day. Although a collective agreement in the wholesale trade did lay down a fixed meal allowance it was not applied by the employer in respect to delivery drivers. The company produced proof that the drivers did have considerable freedom in organising the loading of their vehicles and the timing of deliveries, although some restrictions were imposed by customers. The drivers could therefore not always consume their meal at a set time and place.

The Court found that the drivers were entitled to a meal allowance backdated to 2008. The employer was also required to pay damages to the employees' trade union, plus interest and half the union's 203,000 krona (23,257 euros) litigation costs. [Case A59/12 of 26/06/2013]

Switzerland: Pension funds forced to vote on executive pay

The Swiss government is determined to force pension funds (Pensionskassen) to use their voting rights at shareholder meetings to help "curb 'excessive' manager payments in listed companies".

In March the Swiss public voted for more transparency and accountability when setting executive pay. Under these latest proposals pension boards must draw up a voting policy and pension funds must report to members on their shareholder voting activity at least once a year. Failure to use their voting rights will result in a heavy fine. Interested parties have until July 28th to make their views known to the Swiss Justice Ministry. The necessary legal and constitutional changes will then be set to come into effect by January 1st 2014.

Switzerland: Removal of tax break for high worth foreigners

Switzerland's Federal Council (cabinet) has issued a resolution which opposes a popular initiative to abolish flat tax-rate for wealthy foreigners. The system currently allows persons with a net wealth greater than 1,523,930 euros to be taxed at a fixed rate, provided they are not working in Switzerland.

This rate is determined by the rental value of their property, quite unlike the basis for taxing Swiss residents. In September 2012 the fixed-rate was raised from five to seven times the rental worth of the property, effective in 2016.

This move by the government would require an amendment to the Constitution in order to make tax privileges for individuals illegal and prohibit lump-sum tax rates. However, if the government does not act soon changes may be forced upon it by a referendum which is due to be held in 2014.



Pay, Tax and Benefit Trends

GERMANY: Negotiations on the renewal of local retail sector agreements in Germany have been progressing very slowly during the current wage round. In Saarland employers are refusing to increase wage rates, whilst in Berlin/Brandenburg the trade union Verdi is seeking a 7.3% increase in wage rates in response to the employers' insistence that any increase should be in return for greater working time flexibility. In Baden-Württemberg employers have put forward a two year offer amounting to 4%, but only on condition that a number of modifications are made to tariff structures.

NETHERLANDS: A trial of the use of identity cards will begin next January in the Dutch temporary employment agency sector in an attempt to eliminate Mala fide (in bad faith) bureaux. The Social Affairs Minister, Lodewijk Asscher, hopes that the introduction of an identity pass card for temporary employees will help combat evasion of the minimum wage, allowances and taxes. Its initial focus will be in the mushroom production sector, but it will ultimately be extended to other areas of horticulture and agriculture, the building industry, cleaning and hospitality.

NETHERLANDS: A new upper limit is to be placed on CEO pay in the Netherlands. It will apply from 2015 in any company receiving public funding. The new upper limit will fall from 130% to 100% of that received by a government minister (currently 144,000 euros plus a fixed expense allowance). A second Bill currently being drafted will apply the new income rules to all staff in the public and semi-public sector. This would come into effect on January 1st 2017.

SPAIN: The Spanish government has established a committee of experts to advise on the reform of the Spanish tax system. The government intends to overhaul the entire system, including income

tax and corporation tax, to encourage growth, aid economic recovery and prioritise job creation and the internationalisation of companies. The committee's report will be due in February 2014, with consequent reforms expected to take effect early in 2015.

UK: The largest-ever pension insurance buyout in the UK has just been completed. This involved the pension insurance divestment of EMI Group's defined benefit pension scheme. EMI's pension fund was retained by Citigroup under the terms of EMI's sale in 2011 when the recorded music division was sold to Universal Music Group and the publishing division was acquired by Sony/ATV. Now the pensions of 20,000 members covered by the fund will be handled by the Pension Insurance Corporation.

UK: DHL workers operating at Jaguar Land Rover's three plants in the UK are threatening to stop production over a claim for pay parity with autoworkers. The company has increasingly relied on major logistics companies such as DHL to carry out shop-floor activities, such as delivering parts by forklift truck to production. This is in spite of flexible working agreements with trade unions to use directly employed workers to service just-in-time systems.

Other European HR news in brief

EUROPE: Many companies meet with obstacles when trying to obtain insurance cover for temporary cross-border activities. This is particularly an issue for companies that wish to provide services in another EU member state without establishing a permanent office there. The European Commission would like to determine the nature and scope of these obstacles and is currently consulting service providers. The consultation will end on August 16th 2013. [http://ec.europa.eu/internal_market/consultations/2013/temporary-insurance/index_en.htm]



FRANCE: Two of Europe's largest recruitment agencies — Adecco and Randstad — are under investigation by the French competition authority over the way they operate commercially in the marketplace. No further details are currently available. France accounts for 25% of Adecco's turnover and 18% of revenues for Randstad.

IRISH REPUBLIC: A law that could allow mothers to share part of their maternity leave with the father of their child has been proposed in Ireland by Fianna Fáil senator, Mary White. The government has indicated that it will not oppose the general principle of the law — although the details will be open to parliamentary debate. The law will be discussed this Autumn, with adoption leave being addressed at a later stage.

NORWAY: Even though the low-fare airline Ryanair was victorious in a Norwegian court at the end of June, their former flight attendant has not yet given up their challenge over low pay, "poor benefits" and "unfair work practices" and is now going to Appeal. In the court's view the allegation that the company operated "slave contracts" was a matter that should be dealt with under Irish law before an Irish court, even though the employee concerned was based in an airport close to Oslo.

LATVIA: Latvia's application to join the eurozone has today been approved by EU Finance Ministers. With clearance already gained from the

European Commission and European Central Bank this means that the way is now open for Latvia to enter the euro currency area on January 1st 2014. The effective exchange rate has also been agreed at 1 euro = 0.702804 lats.

POLAND: Amendments to the Polish Labour Code, which introduce flexible working and extend the averaging (settlement) period for working time from four to twelve months, have been approved by the Polish Senate. The longer averaging period will be allowed "if it is justified by objective or technical reasons, or reasons relating to the organisation of work". A further feature of the proposed changes will be a facility for individual employees to request individualised working time without the need for employers to consult trade unions or other employee representatives. These amendments will now return to the lower house of Parliament for further review.

RUSSIA: The Russian state Duma (parliament) is currently debating whether to change the date of the non-working "Russia Day", currently held on June 12th each year, to "a more significant date in national history". The current date has been observed since 1994, but suggested alternatives are July 28th or September 21st — although the latter date also marks the day when the then Russian President announced the dissolution of the Russian legislature in 1993.

FedEE news:

FEDEE FOUNDING FELLOWSHIP: The heads of HR departments and their first reports in FedEE member companies may now apply for Fellowship of the Federation. There is no charge for "Founding Fellowship" provided we hear from you by July 31st. We are developing a number of services especially for Fellows which include policy development workshops, and a consultative forum where existing and proposed FedEE services will be reviewed. Fellows will also have open access to a number of new services and publications that we shall be launching in the future. You will receive an attractive Fellowship scroll and may use the designation F.FedEE.



To apply for Fellowship please email our Membership Secretary, Angelika Rivero on angelika.rivero@fedee.com. After the deadline applications for Fellowship will be subject to an annual fee, although Founding Fellows will continue to enjoy their fellowship status at no additional cost for as long as their company remains in FedEE membership.

TRAINING FILM OFFER: FedEE's professionally produced training film on workplace racial discrimination is now available on special offer at just £75 (c \$113.75/ 86.81 euros). The film stars Shereen Martin (RSC/Royal Shakespeare Company), Simon Slater (Mama Mia, Dealers), and Adam Kotz (Doctors, Last King of Scotland) and was made with the support of the UK government's Advisory, Conciliation and Arbitration Service. This is a deeply moving 25 minute drama that could be used to illustrate key issues common to most jurisdictions. To purchase a copy whilst this offer lasts please go to our online eShop at <http://www.fedee.com/products-page/media-publishing/without-prejudice/>.

JSB EMPLOYMENT LAW TRAINING OFFER: FedEE and [JSB](#) are working in partnership to offer FedEE members a 10% discount on any international employment law course booked using the discount code 'fedee12'.

JSB offers a wide range of employment law training for HR professionals, covering all aspects of UK and international employment law.

Full details of their employment law programmes can be found [here](#).

Their full range of **international employment law courses** covers over 30 countries, including comprehensive 1-day seminars on many European jurisdictions. Each seminar is led by a legal expert from the country in question, providing first class legal expertise that links legislation to practical HR management challenges. Full details of their upcoming courses can be found [here](#).

To activate the FedEE member discount code, simply quote 'fedee12' when booking.

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