



FedEE
Federation of European Employers
Fédération des Employeurs Européens

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Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

Europe: Severe obesity may amount to disability

Spain: Employer social security cuts for hiring young people

Croatia: New law on health and safety

UK: Courts may not change the wording of a restrictive covenant

Norway: Proposal to amend labour immigration rules

France: Decree ordered to clarify situation on anonymous CVs

Serbia: Changes to labour and pension laws

Czech Republic: Employers to face higher fines under amended Employment Act

Croatia: New law on health and safety

A new law on occupational safety and health has come into force in Croatia. One of the most significant features of this law is that it provides for the establishment of an Institute for the Improvement of Safety at Work. This body will be responsible for monitoring the implementation of health and safety regulations in the workplace and proposing measures to improve health and safety at work.

The law also introduces provisions that protect workers from the risk of psychosocial stress. Employers are now required to prevent stress at work or in connection with work (i.e. stress caused by the content of work, work organisation, work environment, poor communication and interpersonal relationships). Employees must follow employer's instructions regarding ways to prevent, eliminate and reduce stress.

In addition, the new law regulates the use of surveillance devices by employers in the workplace. These audio and video monitoring devices should only be used for the purpose of

ensuring employees' health and safety and not for other reasons. Employers should acquire prior approval from works councils and notify workers that they will be monitored by these devices.

Czech Republic: Employers to face higher fines under amended Employment Act

The President of the Czech Republic has signed a new law amending the Employment Act. The amendments mainly concern fines for illegal labour practices and the employment of persons with disabilities and will come into force on January 1st 2015.

Under the amendments, the value of fines that Labour Inspectors may impose on employers will be increased from the current upper limit of 400,000 koruna (14,558 euros) to an upper limit of 1,000,000 koruna (36,395 euros). If an employer is responsible for an employee exceeding the working time specified in their employment contract, they may have to pay a fine of up to 2,000,000 koruna (72,790 euros). The same fine will be imposed if an employer terminates a



contract of employment without giving reasons. Inspectors will be able to impose fines even for minor offences.

The amended Employment Act also includes a number of measures to increase the protection of disabled workers and to encourage the employment of these workers in permanent positions.

Europe: Severe obesity may amount to disability

Advocate General Jääskinen, who advises the European Court of Justice, has given an opinion on the issue of obesity being considered a disability.

The Advocate General stated that, under EU law, there is no general principle that forbids employers from discriminating on the basis of obesity in the labour market. He did, however, state that severe obesity could be considered a disability if it impedes the employee's full and effective participation in professional life on an equal footing with other workers. In his view, those who have a body mass index of over 40 will suffer problems regarding mobility, endurance and mood and this could amount to a disability.

The case in relation to which this opinion was given will be considered by the Court over the next few months. Opinions by Advocates General are generally, but not always, followed in the decisions made by the Court. [Kaltoft v Municipality of Billund (C-354/13)]

Malta: Sanctions should be in proportion to the offence

A recent case in Malta saw the Industrial Tribunal once again highlight the importance of the principle of proportionality in Maltese employment law.

The employee in this case had been summarily dismissed for taking one day of leave when her work colleague had called in sick. The employee claimed that the termination of her employment was unfair — despite the fact that she had already received two prior warnings for poor performance and reporting to work late. The Tribunal agreed.

The Tribunal stressed that dismissal should only be considered when the specific circumstances are serious enough to warrant it. The punishment should be in line with the offence. In this particular case a more proportional response may have been suspension of the employee without pay, rather than termination of the employment relationship. [Marsina Gatt vs Euston Co. Ltd. Decision No. 2291 Final]

Norway: Proposal to amend labour immigration rules

Norway's Directorate of Immigration has begun a consultation process to amend the country's immigration laws after becoming aware of certain problems with the current regulations.

Under the current regulations, skilled job seekers who do not require a visa to perform work may reside in Norway for up to six months without a residence permit. They need only report to the police after three months. However, according to Schengen obligations as set out under the relevant EU Directives, third-country nationals who do not require a work permit are only exempt from having a residence permit for stays shorter than three months. The Directorate of Immigration has recognised that this could cause problems for such individuals when they return home via another Schengen country as they will not be able to prove their lawful residence in Norway. To rectify this issue, the Directorate proposes that the regulations be changed to allow foreign skilled workers to be granted a residence permit for up to six months.



Further amendments concerning off-shore stays at fixed facilities, independent contractors and self-employed individuals are also proposed. The consultation process will run until September 15th 2014.

Serbia: Changes to labour and pension laws

The Serbian Parliament has approved amendments to the Law on Pension and Disability Insurance. The modified law provides for the gradual equalisation of the retirement age for men and women. To achieve this, the retirement age for female employees will increase from 60 to 65 over the next 18 years. The law also introduces monetary penalties for early retirement.

A number of amendments to the Labour Code were also approved by the Parliament. These amendments are effective immediately. As a result, fixed-term employment may now be entered into for a period of two years rather than one. Such contracts may also be extended up to a total maximum duration of three years.

In addition, employees will now earn the right to annual leave after just one month of continuous service rather than after six months. Employees will, however, lose the right to compensation for unused holiday, except when the employee's contract is terminated.

Statutory redundancy pay has also been reduced to a minimum of one third of the employee's salary for each year of employment with their current employer. Severance pay at the point of retirement will now be two rather than three times the employee's average salary.

Spain: Employer social security cuts for hiring young people

The Spanish Government has approved a Royal Decree Law that creates a 'Youth Tariff'. Under

this scheme, companies will receive reductions in their social security contributions when they hire an individual aged 16 to 25 years who has not worked for the previous 30 days and has not studied during the previous 90 days.

For young persons engaged on a full-time indefinite contract, there will be a reduction of 300 euros. For those engaged on a part-time indefinite contract there will be a reduction of 225 euros if the working day is equivalent to at least 75% of a full-time working day, and 150 euros if the working day is at least 50% of a full-time employee. These reductions will be applied just once, for a period of six months, to the contributions made for each eligible young person. If the employment contract is terminated before six months, any reductions already granted will have to be repaid.

Employers will be able to take advantage of this incentive scheme until June 30th 2016.

UK: Courts may not change the wording of a restrictive covenant

The UK Court of Appeal has overturned the decision of the High Court in *Prophet plc v Huggett*, and, in doing so, reaffirmed the traditional position on the interpretation of restrictive covenants.

As reported in our May 8th edition of the Newswire, in its decision of April 2014, the High Court ordered an injunction to enforce a 12-month non-compete clause despite the fact that, when read literally, it did not actually provide the employer with any protection. The High Court held that the clause should be rewritten to give effect to the intention of the parties.

The Court of Appeal disagreed, however, confirming that a court should not change the language of a covenant nor add words to widen or limit the covenant's effect beyond its apparent ordinary meaning. [[2014] EWCA Civ 1013]



Pay, Tax and Benefit Trends

AUSTRIA: Penalties for paying employees below the legal minimum wage and for failing to retain salary documents are soon likely to be increased in Austria. Under a proposal to amend the law on social dumping, employees would be informed if their employer has received a penalty order for underpaying them. They would then be able to demand back pay or sue their employer for it if they refuse. In addition, the range of fines that may be applied to employers for failure to keep wage records would be doubled from between 500 and 5,000 euros to between 1,000 and 10,000 euros. The proposed law has been sent for review. If passed into law it is likely to come into force from January 2015.

BELARUS: The President of Belarus, Alexander Lukashenko, has signed a decree that adjusts the actual earnings of retired workers and recalculates pensions. As a result, from August 1st 2014, employees with an occupational pension will receive an increase of 7.3% on average.

CYPRUS/SWITZERLAND: On July 25th 2014, Switzerland and Cyprus signed a treaty against double taxation. The agreement is based on the Organisation for Economic Co-operation and Development (OECD)'s Model Convention for the Avoidance of Double Taxation on Income and on Capital. This is the first time the two countries have entered into such an agreement.

FRANCE: France's National Institute of Statistics and Economic Studies (INSEE) has recently published a report on wages in 2011. The report reveals that the average gross wages for employees working full time in 2011 were 18.60 euros per hour. In 2010, it was 18.10 euros, thus wages increased by 2.5% in 2011. Wages were highest in the scientific research, finance, pharmaceutical and publishing sectors where the average hourly wage exceeded 27 euros.

However, in sectors employing less skilled workers, such as the accommodation and food services sectors, the average gross hourly wage was less than 15 euros. In addition to these sectoral disparities, significant wage differentials also exist depending on the size of the company, region and gender of the employee.

ITALY: The Italian Supreme Court recently confirmed that a manager who invents a new product or application during their employment has no claim to 'fair compensation' if the activity of invention is the manager's main task under the employment contract, and a specific fee has already been agreed for this work. Such an invention will, in these circumstances, be considered a service invention (*invenzione di servizio*), for which additional 'fair compensation' is not due. Under Italian law, employees are only entitled to 'fair compensation' when they make a so-called company invention (*invenzione d'azienda*), i.e. when they make an invention during the course of their employment which is linked to their tasks but is not the aim of their employment. [Sentenza n.14371/2014]

LITHUANIA: European Union ministers have announced that Lithuania will become the nineteenth member to adopt the euro. The European Commission, the European Central Bank and the European Parliament had all previously approved Lithuania's accession to the Eurozone. It will begin to use the single currency from January 1st 2015.

SERBIA: On July 18th 2014, the Serbian government made a decision to keep the national minimum wage at 115 dinars (just under 1 euro) per hour for the period July to December 2014. The national minimum wage has not changed in Serbia for the past two years and continues to lag behind other European countries.

SLOVENIA: The National Employment Office of Slovenia is now offering a subsidy to employers



who hire unemployed people aged 50 or over in eastern Slovenia. Employers will receive a subsidy of 5,000 euros for each unemployed person aged 50 or over who they retain for at least one year. The person must have been unemployed for at least 12 months prior to being hired, or have no qualifications. The public invitation to apply for this subsidy was opened on the Employment Office's website on July 21st 2014 and will close on September 30th 2014.

UK: Employers who ask employees to rely on the European Health Insurance Card (EHIC) should be aware that, since July 1st 2014, UK individuals may only reclaim from the National Health Service costs that would be covered in the country concerned. Thus, if an UK citizen goes to another EEA country that requires its own citizens to pay a patient contribution, UK individuals will also have to pay. They will no longer be able to claim reimbursement for payments made when they return to the UK.

UK: According to the National Office of Statistics, average pay including bonuses for employees in Great Britain was 0.3% higher in the period March to May 2014 than in the same period in 2013. This is the lowest growth rate since 2009. Average pay excluding bonuses was 0.7% higher between March and May 2014 than for the same period in 2013. This is the lowest annual growth rate since 2001. In May 2014, average pay for employees excluding bonuses was £449 gross per week. Average pay including bonuses was £478 gross per week.

Other European HR News in Brief

FRANCE: The French Council of State has ordered the government to implement a law from 2006 that makes it mandatory for employers with more than 50 employees to use anonymous CVs. The law was created to prevent discrimination when hiring workers but, although the law was passed, its implementation decree was never

published. The Council of State has stated that the decree is needed to clarify the extent of the obligation and the practical arrangements regarding its implementation. It has ordered the government to issue the decree within the next six months.

FRANCE: The proposed Act on Equality between Men and Women has now been definitively adopted in France. As a consequence, from October 1st 2014 parents may take an extra six months of parental leave for their first child, as long as both parents share the leave. For example, if the mother has taken leave for the first six months, the father must take the following six months. For their second or subsequent children, parents will still be able to take up to three years of parental leave, but only if the second parent takes at least six months of the leave. If this is not the case, parental leave will be reduced by six months.

GERMANY: Germany's Federal Labour Court (BAG) has recently relaxed the requirements regarding the validity of decisions taken at works council meetings. The Works Constitution Act clearly states that the chairman of the works council must invite members to meetings in good time and include information of the agenda with the invitation. Previously the BAG had held that if a decision was taken on a matter that was not included in the agenda, or where no agenda was given to members, the decision would be void unless remedied by the presence of all the members of the works council and a unanimous decision was taken. In a recent case addressing this issue, however, the BAG ruled that the error may be remedied if all members are invited to the meeting in a timely manner, at least half of the members are present and the vote is unanimous. [1 ABR 2/12 (B)]

JERSEY: British Crown Dependency, Jersey, is planning to introduce maternity legislation for the first time ever. Pregnant employees will be entitled



to two weeks of leave paid by their employer and up to 16 weeks unpaid leave, depending on the employee's length of service. As yet, it is not known when this legislation will come into force.

NETHERLANDS: In 2013, 458,000 employees in the Netherlands sustained physical or mental damage due to an occupational accident. According to the latest data by Statistics Netherlands, 8.2% of employees under the age of 25 suffered from an occupational accident in 2013 — this is one and a half times as many victims aged over the age of 25. Certain sectors are more vulnerable to accidents: approximately 12% of people employed in the hotels and restaurants sectors and more than 8% of construction and industry and energy workers were injured in the workplace. The accident rate is relatively high among people working shifts, weekends and overtime on a regular basis.

NORWAY: Amendments to the Work Environment Act that simplify sickness monitoring in Norway have now come into force. For more information please see our knowledgebase.

SPAIN: According to the Spanish Ministry of Labour, during the period January to May 2014 there were 198,807 occupational accidents that

resulted in sick leave being taken. 170,265 of these accidents occurred during the working day and 26,542 occurred when commuting to or from work. In comparison to the same period in 2013, there were 3.8% more accidents resulting in sick leave being taken. The Ministry notes that, from January to May 2014, there were 1,331 serious accidents recorded (four more than during the same period last year) and 186 deaths (two more during the same period in 2013).

UK: The UK Court of Appeal has recently held that a contractual disciplinary procedure did not give an employer the power to increase a sanction from a written warning to dismissal on appeal. The employment contract was silent as to whether a harsher sanction could be imposed on appeal, and the Court decided that increasing a sanction would be inconsistent with the right to appeal — the reason being that the right to appeal should be a benefit for an employee. Effectively, the decision seems to suggest that an employer may only increase a sanction on appeal if they have expressly reserved the right to do so in the employment contract. This, however, is likely to be frowned upon by the Advisory, Conciliation and Arbitration Service (ACAS). [[2014] EWCA Civ 1031]

FedEE News

IMPORTANT CHANGES AT FEDEE: A number of changes shall be taking place over coming weeks as FedEE widens its geographical coverage from Europe to worldwide and establishes itself as The Federation of International Employers (FedEE Global). We have established a new head office at Broad Quay House, Prince Street, Bristol, BS1 4DJ, UK and are currently forming a further office in Hong Kong to serve Asia and the Pacific. Please direct future communications to our Bristol office, telephone 0044 (0)117 975 8611. Our email contact details shall remain unchanged.

PAY IN EUROPE 2014: The 13th edition of Europe's most comprehensive review of remuneration levels has just been published by FedEE. Pay in Europe 2014 provides median pay figures for 32 job positions in 47 different countries and territories in Europe. The figures are expressed as gross hourly rates and exclude bonus, commission, 13th/14th month payments and benefits in kind. Download a copy of Pay in Europe 2014, [here](#).



TRAINING FILM OFFER: FedEE's professionally produced training film on workplace racial discrimination is now available on special offer at just £59.94 (+ VAT where applicable, free P&P). To purchase a copy while this offer lasts please follow the following link to our online [eShop](#).

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