



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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Austria: Pro-rata leave arrangements

The Austrian Supreme Court has given guidance on how to calculate holiday entitlements when an employee moves from part-time hours to full-time hours.

The court ruled that holiday allowance that had not been taken whilst the employee worked shorter hours should be altered pro rata to reflect the changed amount of working days. Therefore, the entitlement to one day of holiday when an employee worked one day a week would have to be increased to five days of holiday when carrying it over to a new five-day working week. [OGH 24 October 2012 8 ObA 35/12y]

France: Move to impose state pay controls

The French government is drafting a Bill to increase the power of shareholders to determine executive pay and limit (or ban) enhanced pension deals and “golden parachutes”. The proposal is likely to be submitted to the Assemblée Nationale this summer, after

consultations have taken place with MEDEF, the French employer's organisation.

An attempt to impose a 75% marginal tax rate on those earning over one million euros a year was blocked by the Constitutional Council at the end of last year and further rejected by the finance section of the State Council earlier this month.

France: Adverse weather conditions

Employers in France are taking a tougher stance about employee absence since a Court of Appeal decision in the northern city of Nancy last autumn. The court found that an employer was justified in dismissing an employee who had not returned to work because of heavy snow. However, this does not give employers carte blanche to dismiss employees taking time off because of adverse weather conditions. In the court's view, for absence to be justified

* the usual form of transportation must be rendered impractical

* the employee must have sought to inform their employer about their difficulty in getting to work.



* evidence must be provided to the employer to corroborate the employee's claims and that there was no alternative means to travel to work.

Of course, there will always be alternative ways to handle absence in marginal cases - such as the recording of the absence as annual leave or RTT organised at the last minute.

France: Mutual termination requirements

The French Supreme Court has recently considered two cases where the termination of a contract of employment by mutual agreement (rupture conventionnelle du contrat de travail) is automatically void.

In a judgment of February 6th 2013 the Court ruled that a copy of a final termination agreement must be issued to all parties before being submitted to the local employment authorities (DIRECCTE). Failure to do this renders the termination invalid.

On January 30th 2013 the Court confirmed the rulings of several Courts of Appeal by holding that termination of an employment contract occurring within a context of psychological (so-called "moral") harassment is void.

Germany: Rights of temporary workers

A number of recent Federal Labour Court (Bundesarbeitsgericht) decisions have strengthened the position of temporary workers in Germany. German companies employing a large number of temporary workers should be aware of these changes and follow further developments closely.

On January 24th 2013 the Court ruled that temporary workers must be counted as "employees" in terms of the 10-employee threshold referred to in the "Protection against

Unfair Dismissal" Act (Kündigungsschutzgesetz), if they are employed due to a continuous need for personnel. By extending the applicability of this Act the Court has offered employees working in small companies strong protection against dismissal if temporary workers are regularly employed by the same business. [2 AZR 140/12]

Similarly, in a ruling on March 13th 2013, the Court found that regularly employed temporary workers must be counted as "employees" in relation to the Works Constitution Act (Betriebsverfassungsgesetz). This Act states that the number of members to be elected to a works council depends on the number of a company's employees [7 ABR 69/11]

Furthermore, on March 13th 2013 the Court confirmed that temporary workers may be able to make claims for the difference in salary received by themselves and the higher salary received by the user company's permanent employees. The need for such claims principally arises from a number of past collective bargaining agreements allowing temporary workers to be paid lower salaries than permanent employees.[5 AZR 954/11, 5 AZR 146/12, 5 AZR 242/12, 5 AZR 294/12 and 5 AZR 424/12]

Netherlands: Opposition to labour law reforms

The Dutch government has been in negotiations with trade unions and national employer organisations for the last few weeks over plans to make a number of labour law changes. The key proposals include:

* A reform of employee dismissal rules and procedures. This would see the current dual system replaced by a 'preventive review' of a dismissal by the public employment service, the UWV WERKbedrijf. Having mandatorily sought advice from the UWV, the employer would not be obliged to act on the advice. However, if the



dismissal went ahead and the employee chose to refer his case to the courts the UJV advice would be given due weight.

* A draft 'Participation Act' requiring 5% of a company's workforce (in organisations employing 25+ employees) to consist of workers with an occupational disability.

Strong opposition to these measures has developed within both the union movement and Senate. The proposals are therefore likely to be amended before being finally adopted.

Netherlands: Job search periods

Although it takes the average job seeker in the Netherlands six months to find another position, this job search period increases for every month that the individual is unemployed - unless they have undertaken additional training or are willing to take lower paid employment.

A person unemployed for a year will have to continue their search, on average, for a further 17 months. Age is also a factor in securing new employment, with the over 50s having to search for an average of 8.4 months after they first join the unemployment register.

Russia: Vocational training policy

Russia's Vice Premier and Finance Minister Golodets Olga has been charged with drawing up a new approach to vocational training and the creation of tax benefits for companies that establish their own training programmes.

It has been accepted by the government that the existing educational system is ill-equipped to deal with the need to update learning on a constant basis and to carry out rapid retraining in specific sectors. The Ministry of Finance will be working closely with the Education Ministry to monitor the

demands for new skills and the rewards on offer in different professions.

OECD: Minimum wage excludes least educated from jobs

In their latest Economic Survey of France the Organisation for Economic Cooperation and Development (OECD) has highlighted the problem of youth unemployment.

The authors recommend that the many existing income-support programmes should be replaced by an extension of the minimum income scheme to young adults. However [...] "this must be accompanied by stronger requirements to train, search for and accept work. France's high minimum wage tends to exclude the least educated youths from jobs. The transition from school to work is indicative not only of weaknesses in the labour market, but also of an education system that distributes resources poorly [...] and generates dropouts."

Pay, Tax and Benefit Trends

EUROPE: A number of countries in northern Europe are using their corporation tax system to kick start their economies. The latest move is by Finland which will reduce corporation tax to 20% from 24.5% with effect from 2014. Sweden cut its corporate tax rate from 25% to 22% on January 1st 2013, Denmark announced in February that it would be dropping corporation tax to 22% by 2016 and the UK will lower its standard rate to 21% in 2014 and 20% in 2015.

EUROPEAN UNION: Hourly labour costs in the European Union's business economy rose by 2.1% over the year to Q4 of 2012. This is slightly down on the 2.3% rise recorded over the year to Q3 2012. In the industrial sector the latest annual rise was 2.6%, compared to 2.0% in the service sector and 1.2% in construction. Business economy costs rose in all countries except in the



Maltese industrial and construction sectors (-4.0% and 3.9% respectively), the construction sector in Slovakia (-8.2%), Poland (-3.2%), the UK (-3.1%), Bulgaria (-2.4%) and Slovenia (-1.9%) and the service sector in Slovenia (-1.8%) and Spain (-0.2%).

GERMANY: A new collective agreement covering all 130,000 employees of the German railway operator Deutsche Bahn provides for a 3% increase on May 1st 2013, followed by a further 3% rise on April 1st 2014. Employees will also each receive an immediate one-off gross payment of 500 euros.

GERMANY: A car sharing initiative is being launched nationwide in Germany that could assist commuters and company car users alike. The service is being offered by Ford of Germany, the German Ford dealers association FHD and DB Rent. It will be principally offered through 50 Ford dealerships and will operate via an App-based booking system compatible with both iOS and Android mobile devices. After roll out this year it is anticipated that the system will involve over 500 vehicles.

ITALY: The Italian automaker FIAT has entered into a one-year pay deal with the FIM, UILM and FISMIC trade unions. This provides for a general flat-rate increase of 40 euros a month for the company's 80,000 employees. An additional bonus of up to 120 euros a month will also be paid to employees reaching their targets. This deal comes on the back of already agreed efficiency measures such as flexible working, changes in rest breaks and improved shift arrangements.

ITALY: The Italian statistical agency (Istat) has reported that in Q4 2012 the seasonally adjusted index of gross wages (fte) increased by 0.7% compared to the previous quarter (+1% in industry and +0.4% in services). Over the same period working day adjusted per capita hours worked in firms with at least 10 employees in industry and

services decreased by 1.9%. Job vacancies also fell from 0.6% of all occupied positions in Q4 2011 to 0.3% in Q4 2012.

MACEDONIA: The gross minimum wage in Macedonia's textile and leather sectors has risen to MKD 10,990 (179.64 euros) per month - compared with a monthly minimum wage in other sectors of 12,268 (200.52 euros). These rates are payable to full-time workers and do not include wage supplements. Moreover, employers are free to set reasonable target performance levels that must be met for the minimum wage to be payable.

MALTA: The election of a Labour government in Malta is likely to result in the restoration of the practice of declaring a Monday a public holiday whenever it is preceded by a fixed-date public holiday that falls on a weekend. Since 2005 all public holidays falling on a Saturday or Sunday have been effectively lost. The next public holiday to fall on a weekend is Freedom Day on March 31st and the Feasts of St Peter and St Paul on June 29th.

NETHERLANDS: The latest earnings figures from the Dutch Central Bureau for Statistics (CBS) reveal that in 2011 5% of all jobs were second jobs. Moreover, although only 1.8% of the working population earned more than 100,000 euros per annum, this proportion rose to 8% in the finance sector. Of the 145,000 people in the working population with annual earnings in this upper bracket just 16,000 were women.

ROMANIA: The Romanian government has announced two additional Public Holidays for 2013; Thursday 2 May and Friday 3 May. These additional one-off-non-working public holidays mean that Romanians will now be on official public holiday from Wednesday May 1st 2013 until Monday May 6th 2013.

UNITED KINGDOM: The UK government intends to block a loophole which currently allows



businesses to avoid paying social security in the UK. This is achieved by employing staff through an offshore intermediary - often in tax havens such as the Channel Islands. It is estimated that 100,000 employees are affected at an annual cost to the state of around £100 million in lost contributions. Legislation will be included in the 2014 Finance Bill and the loophole will be closed on April 6th 2014.

UKRAINE: A draft law before the Ukraine parliament seeks to heavily reduce the country's substantial grey economy. The proposal would cut employers' social tax contribution from 32.6%-49.7% to just 18% of an employee's wage. Although the state pension system is highly indebted, advocates of the reform argue that the shortfall would be more readily made up if more workers could be drawn into the formal economy.

Other European HR news in brief

CYPRUS: As the banking crisis in Cyprus runs into its second week companies are finding it increasingly difficult to maintain their operations and pay either staff or their suppliers. When the banks do reopen it is likely that accounts with balances in excess of 100,000 euros will continue to remain frozen until it is determined how a new state levy of up to 40% (effectively 100% in the case of one bank) will be imposed.

RUSSIA: The state labour authorities in Russia have removed a requirement for the working conditions of all jobs to be subject to evaluation every five years. From now on only workplaces with dangerous or hazardous conditions will be subject to regular inspection and certification. Labour inspectors will continue to carry out assessments following accidents or after being

alerted about particular problems - but most white-collar jobs will be effectively exempt.

RUSSIA: A new legal act in the Russian Federation imposes fines of 5,000 - 10,000 rubles (125-250 euros) on employers who fail to create (or allocate) jobs for disabled persons in line with established quotas, or refuse to employ people with disabilities.

IRISH REPUBLIC: In Ireland, new parental leave regulations were signed by the Minister for Justice and Equality on 8 March 2013. The regulations increase the unpaid parental leave available to each parent from 14 weeks to 18 weeks per child and provide parents returning to work following parental leave the right to request a change in their work pattern. This request must be considered by their employer - although they have no legal obligation to grant it.

ITALY: A number of disruptions are likely to affect business travel in Italy during coming weeks. There will be industrial action by Alitalia staff all day on April 18th. There will also be some disruption by airport staff on April 19th. Public transportation strikes, mainly affecting local railway services, are also scheduled for April 8th.

UNITED KINGDOM: The UK's Advisory, Conciliation and Arbitration Service (ACAS) has launched a consultation in respect to its draft Code of Practice on the extended right to request flexible working. Employees and employers are invited to submit their views by May 20th 2013. The UK Government is also consulting on the issue of shared parental leave and pay. This consultation closes on May 17th 2013, and the government intends to publish its response later in the summer.



FedEE news:

3rd ANNUAL PAN-EUROPEAN HR FORUM: FedEE Secretary General Robin Chater will be chairing the 3rd Annual Pan-European HR Forum on 23rd and 24th May 2013 in Berlin.

This event has been designed for HR Directors with a European, EMEA or international remit, and it provides an excellent platform to come together to network and to share best practice. The two-day conference will include speakers from leading organisations such as Santander, L'Oréal, Astellas, GE, KPMG, Marks & Spencer, Ricoh and others, and provides streams and workshops for a range of different aspects of strategic talent management and organisational development.

As part of our collaboration with this event we can offer a discounted rate for our members – please use this link to book your place: www.eurohr.eu/member

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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