



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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Irish Republic: Industrial Relations Act to be reformed

The Cabinet of the Republic of Ireland has approved the reform of the Industrial Relations (Amendment) Act 2001.

The main provisions of the reforming legislation include a definition of collective bargaining, following disagreement between two courts on what this was. There will also be provisions to assist the labour courts in identifying whether or not internal bargaining bodies are indisputably independent of their employer.

The reform will give more clarity as to what conditions must be fulfilled in order for a trade union to progress with claims made under the Act. Policies will be established to help labour courts assess employees' terms and conditions.

In addition, the reform expressly forbids employers using any type of incentive to have their workers relinquish collective representation rights. It also strengthens the protection of

workers who may be suffering from victimisation for exercising their rights under the Act.

Italy: Decree on fixed-term contracts re-negotiated

An amended version of the so-called 'Jobs Act' (law Decree no. 34/2014) has finally been approved by the Italian Senate following a number of modifications to the provisions on fixed-term contracts and apprenticeship contracts.

The original Act, which came into force in March this year, came under review after it was denounced to the European Commission by the Italian National Association of Democratic Lawyers (l'Associazione Nazionale Giuristi Democratici) on the basis that it was incompatible with Community legislation.

Under the new version of the law, fixed-term contracts of employment may last for up to three years. No more than 20% of an employer's total workforce may be engaged on this type of contract — although researchers and technical staff of scientific research institutions are excluded



from the 20% limit. Employers not complying with this limit will be fined.

Fixed-term contracts may now be renewed up to a maximum of five times in three years provided that there are objective reasons and the renewed contract refers to the same work. In the original version of the law a maximum of eight renewals were permitted.

As regards apprenticeship contracts, these must be in writing and contain the individual training plan. Only employers with more than 50 employees will be required to retain indefinitely a minimum of 20% of apprentices.

Norway: Ministry proposed changes to employment laws

The Norwegian Ministry of Labour has proposed amendments to the Holiday Act with the intention of bringing it in line with Article 7 of the EU Working Time Directive. This follows several recent judgments by the European Court of Justice on the matter.

The Ministry has proposed an extension of the employee's right to postpone their annual leave if they fall sick during the leave. It has also proposed to remove the current option to choose financial compensation instead of a postponement of annual leave when this leave was not taken because of sickness or parental leave. Instead, annual leave not taken for these reasons would simply be carried over to the following year.

An amendment to the Working Environment Act has also been put forward. Under this Act, employers are required to notify the local Labour Inspectorate when working environment committees are created. Having received feedback that few businesses actually submit this notice and that it has no practical use, the Ministry wishes to repeal this obligation.

The Ministry hopes that their proposals will be submitted to parliament.

Poland: Flexible working statistics

According to the Polish National Labour Inspectorate, 901 companies introduced flexible working between August 2013 — when flexible working laws were introduced — and May 12th 2014.

The data shows that larger companies were more inclined towards flexible working — 157 very large companies (companies employing over 250 employees), 335 large companies (companies employing 50 to 249 workers) and 249 medium-sized companies (companies employing 10 to 49 employees) introduced flexible working in this period. Flexible working has also proven particularly popular for companies in manufacturing (37%), trade and repairs (17%) and construction (11%).

Russian Federation: Law to regulate agency work approved

The President of the Russian Federation, Vladimir Putin, has agreed to a new law regulating agency work in Russia. It is due to come into force on January 1st 2016.

In essence, the law forbids agency work, but it does allow employment agencies to offer jobs to agency workers for a maximum of nine months to cover periods of staff absences or periods of increased business activity. If the number of employees taken on is more than 10% of the average total number of employees, the decision to hire such workers must take into consideration the opinion of a trade union.

Agencies will not be permitted to provide temporary workers to cover strikes or to work in hazardous working conditions.



Spain: Suicide recognised as occupational accident

The High Court of Justice of Catalonia in Spain has held that the suicide of a forest worker was an occupational accident as it occurred as a result of work-related stress. The Court reversed the decision of the lower court and upheld the appeal by the deceased's wife and children, recognising their rights to pensions as widows and orphans for labour accidents.

Before committing suicide, the employee — who worked for the government — wrote a handwritten letter addressed to his superiors. In this letter he explained how a fire at work, which he had helped to extinguish, had deeply affected him. He stated that he believed he would be used as a scapegoat by the Catalan administration. The Court held that there was a direct link between the act of suicide and the worker's state of anxiety and, as the origin of his anxiety was his job, the suicide should be recognised as an occupational accident. The decision is not final and could be appealed to Spain's Supreme Court.

UK: Code of Practice to prevent illegal employment

The UK has published a new Code of Practice for 'avoiding unlawful discrimination while preventing illegal working'. The Code was the result of consultation with the Equality and Human Rights Commission and employer organisations, and replaces the previous Code from February 2008.

Employers have a legal obligation to prevent illegal work from occurring by carrying out document checks before recruiting an individual to ensure they have the right to work in the UK. Although failing to conduct document checks is not a criminal offence, the Code advises employers to carry out these checks on all individuals — both to protect themselves from liability for hiring an illegal worker and to avoid

claims of discrimination if they only check the documents of certain individuals.

The Code also highlights the importance of having clear written recruitment procedures to avoid discrimination claims.

While the Code has been approved by the Secretary of State and parliament, it does not impose any legal obligation upon employers. It may, however, be used in legal proceedings before employment tribunals.

Pay, Tax and Benefit Trends

ANDORRA: The Andorran General Council has adopted draft legislation which will introduce income tax to the country. The general tax rate will be 10% on salaries for incomes that exceed 40,000 euros. However, there will be a reduced rate of 5% for salaries between 24,001 and 40,000 euros. The legislation will come into force on January 1st 2015.

BELGIUM: On May 15th, Belgium published a royal decree and a ministerial decree specifying how companies should perform their duties under the Wage Gap Act (loi relative à l'écart salarial). Every two years a detailed analysis of employees' remuneration structure must be completed at companies with at least 50 employees. This must then be sent to the works council or union delegation. The new decrees advise companies on how to write these assessment reports and provide templates for worker compensation structures.

DENMARK: The Danish Parliament has passed a Bill that amends the law on equal pay for men and women. The Bill increases the number of companies subject to gender-based wage statistic rules by extending the requirements to companies employing at least ten full-time employees including at least three men and three women. Under the law, companies will have to provide



gender-specific wage statistics to Statistics Denmark or an employers' organisation. The employer will have to inform employees that the company is subject to these rules and provide statistics for employee representatives. The amendment will enter into force on January 1st 2015.

GERMANY: In its latest Economic Survey of Germany, the Organisation for Economic Co-operation and Development (OECD) has suggested that Germany take measures to improve its labour market by addressing the split between employees on permanent employment contracts and those on temporary contracts. Permanent employees in Germany generally have better protection against dismissal and higher rates of pay, whilst temporary employees suffer from little protection and lower wages. The OECD believes that rules protection both types of workers should be harmonised.

GLOBAL: Over the last thirty years, the gap between the highest and lowest paid has been increasingly widening according to a recent report by the Organisation for Economic Co-operation and Development (OECD). In 2010, the average income of the richest 10% of the population in OECD countries was 9.5 times higher than that of the poorest 10%, compared with a level only 7 times higher 25 years ago. The OECD suggests that a series of economic, social and tax measures should be put in place to promote growth and tackle inequality.

MACEDONIA: According to the state statistical office, the average net monthly salary in Macedonia in February 2014 was 20,941 denars (340 euros) — 0.1% higher than in February 2013. The increase is due to higher wages in the mining and quarrying sector (+16.5%), construction sector (+8.7%) and administrative and service support sector (+4%). However, average net monthly salaries fell in other sectors, including the agriculture and forestry sector (-

6.5%), electricity and gas sector (-6.5%) and accommodation and food services sector (-4.7%).

SERBIA: The Prime Minister of Serbia, Aleksandar Vucic, has announced plans to adopt tax-relief measures for employers making new hires. The Serbian government is considering paying pension and health insurance contributions for 70% of new workers hired by companies, in order to encourage investment and revive the country's economy. These proposed measures are due to be sent to parliament on May 22nd for review.

SWITZERLAND: Swiss voters have rejected an initiative to introduce the world's highest national minimum wage. In the referendum that took place on May 18th, 76.3% voted against the proposal to implement a national minimum wage of 22 Swiss francs (18 euros) per hour. This is the third referendum Switzerland has held over the past year and a half relating to pay.

UK: The UK House of Commons has voted in favour of a "Ten-Minute Rule Bill" that proposes to outlaw unpaid internships. 181 MPs voted in favour of the Bill compared with just 19 who voted against it. It is difficult for Ten-Minute Rule Bills to become law due to the lack of parliamentary time they receive, however, they are useful for raising topics of concern and gaining governmental support. If this Bill was passed into law, employers would have to pay interns at least the national minimum wage after four weeks of work.

Other European HR News in Brief

BELGIUM: Over the period 2010 to 2013, 4734 cases per year on average were filed at the labour courts in Belgium. However, during this period, the number of pending cases decreased by 30%. Claims mostly concerned employment contracts with employees (20%), collective settlement of debts (11%), unemployment (11%), employment contracts with workers (9%), employee disability



insurance (9%) and occupational accidents (7%). Of all the new cases filed, approximately 27% were in Brussels, 25% in Antwerp, 16% in Ghent, 22% in Liège and 11% in Mons.

BULGARIA: According to a survey conducted by the national labour inspectorate, 2264 workplace accidents were recorded in Bulgaria last year — 30% less than in 2008. Of these occupational accidents, two-thirds occurred at the weekend. The survey has also revealed that at least 30% of employees work more than the statutory maximum of 40 hours a week and that women work more overtime than men. In addition, 44% of employees work on a Saturday (6.2% work every Saturday) and 23% work on Sundays. Despite this, only 31.9% of workers receive extra pay for overtime and only 16.4% receive an additional payment for work on Sundays and public holidays.

FRANCE: France's Supreme Court has recently confirmed the requirement for employment documents to be in the French language. Any document relating to an employee's employment obligations, and any provisions the employee needs to be aware of for the performance of their work — including documents that set out targets for determining variable pay, must be in French. This is the case whatever the employee's proficiency in French and whatever the language used at work. Failure to comply with these legal requirements will mean that the provisions will not be enforceable against the employee. [Cass Soc 12-30191]

FRANCE: For the first time, the French Supreme Court has ruled on the issue of protecting female employees who return from maternity leave after having taken an additional period of paid leave. In this case, the Supreme Court held that the four-week protection period following maternity leave will be suspended by taking paid leave — the commencement of this protection period will be postponed until the day when the employee

resumes work. [Cass.Soc. April 30th 2014, no. 13-12321]

LATVIA: From November 1st 2014, a new Trade Union Act will enter into force in Latvia. The new Act streamlines and modernises the legal framework for trade union activities and removes inconsistencies with other legislation. Broadly, it covers the right to form and join trade unions; distinguishes between enterprise-level trade unions and industry or profession trade unions; defines the union's legal status; regulates the trade union official's authorised activities; and regulates bilateral social dialogue and tripartite cooperation issues.

NETHERLANDS: The Dutch Council of Ministers has approved a recommendation to impose a legal quota on the number of employees with disabilities recruited by organisations in the Netherlands. Employers will be expected to create 100,000 jobs for individuals with disabilities by 2025. The government will also provide 25,000 jobs. This recommendation is based on agreements made in April 2013 between the government, employers and trade unions. The definitive version of the recommendation will be sent to parliament in the Summer.

SPAIN: Spain's Supreme Court has recognised the legitimacy of ad hoc representative committees of workers in challenging collective redundancies where works councils or delegates do not exist. The 2012 labour reform states that only works councils and delegates may challenge the redundancy procedure. However, the Court held that, as representative committees act as extraordinary representation mechanisms where there are no legal or union representatives, and as they have exclusive competence to negotiate business proposals, they should be allowed to challenge the redundancy procedure. The Court considered that a strict literal interpretation of the law would violate the right to effective judicial protection.



UK: Britain's biggest trade union, UNISON, has been given permission to appeal against the UK High Court's decision to decline its judicial review challenge to the introduction of employment tribunal fees. UNISON has declared that it will ask the Court of Appeal to consider the statistics released by the Ministry of Justice which state that 79% fewer claims were brought to an employment tribunal between October and December 2013 compared with the same period in 2012.

UK: The UK Employment Appeals Tribunal (EAT) has clarified that during a transfer of undertakings, employees may only bring a claim for failure to

inform and consult against their current employer. This is the case even when employees of the transferor are affected by the transferee's failure to provide information on any measures they plan to take after the transfer. The EAT stated that transferees only have a duty to provide information to the transferor — not to the transferor's employees directly. Therefore, in order to seek redress the employees affected by the provision of inadequate information must bring a claim against their employer (the transferor) who may, in turn, bring a claim against the transferee. [Allen v Morrisons Facilities Services [2014] UKEAT 0298_13_1604]

FedEE News

FEDEE GOING GLOBAL: FedEE is going global and as such you will notice a number of changes occurring over the next few months. The most significant of these will be the change of our name to the Federation of International Employers. In order to bring you information and support for key jurisdictions around the world we are joining forces with both Baker and McKenzie and the Multilaw network. We will be broadly expanding the geographical coverage of our HR knowledgebase and our law programme will be extended to cover a number of Latin American countries. In addition, we shall soon be offering a range of packages to help you keep up to date with developments in employment law — such as a periodic review of your employment policies to ensure on-going legal compliance. For news of the latest developments, please see announcements on our website and in the newswire.d

NEW GUIDANCE NOTES: A new guidance note on [electronic payslips](#) is now available in our guidance notes section of the knowledgebase. We have also updated and extended our guidance note on [retention of employee records](#). To see all guidance notes available to members in our knowledgebase, please click [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](#).

REFER A COLLEAGUE TO FEDEE AND WE WILL DISCOUNT YOUR MEMBERSHIP FEES: Don't forget our 'refer a friend' scheme. If you refer a colleague from another company to FedEE we will discount your company's next-due membership fee by £100 for each new member that comes out of your referral. To refer a colleague contact Angelika Rivero, with their contact details on membershipservices@fedee.com.



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