



FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

Greece: IMF austerity bill to increase tax liability
Switzerland: Temporary work agencies agreement on minimum pay
Jersey: New consultative provisions

Cyprus: Tax levy on private sector remuneration
Spain: Comprehensive measures to stimulate the job market
UK: Overseas workers may bring claims in the UK

Belgium: Voting rights in social elections

The Belgian Federal Public Employment Service has recently issued (non-binding) guidance on the extent to which temporary workers should be taken into account when determining the number of mandates in the forthcoming social elections.

It has been confirmed that it will be only the temporary workers employed on 'day X' who do not replace a permanent worker whose contract is suspended that are entitled to vote. Furthermore, temporary workers do not have to be taken into account with respect to the distribution of the mandates amongst the different categories of employees.

Denmark: ETA rights of pregnant fixed-term workers

The Danish Supreme Court has ruled that an employer's decision to terminate the employment of a pregnant employee when her fixed-term contract expired did not fall under the rules regarding dismissal contained in the Equal Treatment Act (ETA).

The case involved a temporary employee who was not offered a vacant permanent position when her fixed-term contract ended. She alleged that the reason for this was due to her pregnancy and not because she lacked the necessary skills, qualifications or experience.

The Supreme Court found that not offering continued employment to a temporary staff member is not comparable to dismissal, but must be treated as a rejected application for a new position. This is of specific importance in relation to compensation - which is fixed at 25,000 Dkr (3,363 euros) for discrimination during the recruitment process - somewhat lower than the compensation payable for prejudicial dismissal under the ETA.

Croatia: Reforms increase total tax take

The Croatian government has proposed changes to the tax system, including modifications to VAT, corporation tax, personal income tax and obligatory social security contributions.

The proposals include an increase in the rate of VAT from 23% to 25%, but a reduction in the rate of mandatory health insurance payable by



employers from 15% to 13%. If the planned changes go ahead, the monthly basic personal income tax allowance will increase from 1,800 HKR (237 euros) to 2,200 HKR (290 euros) - but income tax bands will be lowered so that a greater proportion of employees will find themselves paying higher marginal rates.

Cyprus: Tax levy on private sector remuneration

A number of important amendments have been made to Cypriot tax rules:

* Employment costs will no longer be allowed as a tax-deductible expense when set against corporation tax unless social insurance, provident fund and pension fund contributions have been paid within the due year.

* For 2012 and 2013 a special levy will be payable on wages, salaries and pensions paid by private sector employers and on self-employed earnings at the following rates:

- no charge for the first €2,500 of gross monthly earnings;
- 2.5% (with a minimum of €10) for gross monthly earnings between €2,500 and €3,500;
- 3.0% for gross monthly earnings between €3,500 and €4,500; and
- 3.5% for all gross monthly earnings above €4,500.

The levy will be payable by the employer and employee in equal shares. But no levy will be payable on:

- retirement gratuities;
- payments out of provident funds;

- emoluments of foreigners employed by a foreign government;

- emoluments of the crew of a ship registered in Cyprus; or

- allowances to cover business expenses.

Moreover, company loans provided to a director or shareholder will be subject to income tax on the assumed benefit-in-kind, calculated at a rate of 9% per year on the balance.

Greece: IMF austerity bill to increase tax liability

Greece's new Tax Bill is expected to enter into force by June 2012. This will put into effect a number of changes required by the International Monetary Fund. These include:

* Removal of VAT discounts for the eastern Aegean islands and reduced income tax rates for those who live on islands with fewer than 3,100 inhabitants. The 50% increase in the tax-free threshold for those living on low populated islands will no longer apply.

* Abolition of the 6.5% and 13% VAT rates and replacement of the existing 23% rate by a flat rate of 19% or 21%.

* Simplification of the tax system, removal of the tax-free ceiling and the reduction of income brackets in the progressive income tax system.

Jersey: New consultative provisions

A number of changes to the Redundancy Act will be debated next month in the parliament of the Channel island state of Jersey.

The immediate proposed changes relate to the calculation of a week's pay and the definition of the qualifying two years' service in respect to part-time and fixed-term workers. Further provisions



are expected to come into force by June 1st 2012. These include a requirement for employers to notify the Social Security Ministry and consult with nominated representatives when proposing to make redundant twelve or more employees within any 30 day period. Provision will also be made for a 'protective award' where an employer fails to consult as required.

Portugal: Reporting arrangements for non-residents

Following the enactment of Portugal's 2012 State Budget Law, there has been a change to employer reporting obligations for non-resident employees.

The deadline for filing the official form '*Modelo 30*' in which Portuguese companies are required to report income paid to non-resident individuals (as well as the related taxes withheld) is now the end of the second month following the one in which the income was paid. Previously companies were required to report this data once a year, each July.

Spain: Stimulating the job market- too little, too late

The Spanish government has approved an extensive package of labour reforms. In future:

* Severance pay will be cut from 45 days of pay per year worked to 33 days,

* Workers will have to be placed on a permanent contract after 24 months, rather than the current three years,

* Companies with fewer than 50 workers will receive corporate tax breaks of 3,000 euros for each person they hire who is under the age of 30,

* Where an unemployed person under the age of 30 is hired, they will continue to receive 25% of their unemployment benefits, with another 50% of the benefits passed to the employer,

* A company will simply have to show that its revenue is down for three straight quarters in order to make redundancies, with compensation amounting to 20 days of severance pay per year worked.

However, these reforms still leave Spain with some of the highest severance compensation rates in Europe and tightening the right of temporary workers to claim permanent jobs will only further dissuade foreign employers from increasing Spanish headcounts.

Switzerland: Temporary work agencies agreement

Swiss Staffing, the association for temporary personnel businesses, has concluded a collective bargaining agreement (CBA) with four major Swiss unions.

The CBA sets minimum annual salaries for Zurich, Geneva, Berne and Basel, ranging from 41,600 Sfr (34,395 euros) to 55,900 Sfr (46,218 euros). In addition, companies covered by the CBA must take out mandatory sickpay insurance covering 80% of salaries for up to 720 days. Also stipulated are mandatory terms and conditions on working hours, holidays, personal leave days and termination notices.

The Swiss government has now declared that the new agreement is applicable to all temporary work agencies operating on Swiss territory.

Switzerland: Clampdown on hiring of foreign workers

Employers operating in Switzerland should plan for longer processing times for work permit applications and stricter documentation requirements.

The Swiss government is planning to increase its scrutiny of applications following a rise in the unemployment rate for Swiss citizens. As a



consequence, sponsoring employers will be required to demonstrate that foreign workers will not perform any of the day-to-day activities that redundant workers had previously performed and that every effort had been made to recruit locally before hiring or transferring employees from abroad.

UK: Overseas workers may bring claims in the UK

The United Kingdom's Supreme Court has ruled on the right of an employee working overseas to claim unfair dismissal in the UK.

The court concluded that in order to make such a claim an employee would need to establish that they had been posted from a UK-based business and be working either in a British enclave abroad, or a geographical entity having equally strong connections with Great Britain.

In the case in question, the employee was posted to Libya - but employed by a UK company based in Scotland. He was treated as a "UK commuter" by his employer, and all of his international travel to work costs were paid. His employment contract remained governed by UK employment law, and his manager had assured him that he would continue to be protected by UK law whilst he worked overseas. He was paid in UK sterling into a UK bank account, and paid UK tax and National Insurance through the company's PAYE scheme.

The Supreme Court found that there was jurisdiction to hear the case in Scotland. This was determined by the fact that the employment relationship had a stronger connection with Great Britain than where the employee carried out his work duties. The Court distinguished between what it considered as 'truly expatriate' employees where they both live and work abroad and others who work abroad, but have a principal home in Great Britain. The former would have to prove a very strong case to demonstrate a connection with

UK employment law, whereas employees travelling to work overseas need only show a "sufficient connection" with Great Britain (Ravat v Halliburton Manufacturing and Services Ltd).

Pay, Tax and Benefit Trends

AUSTRIA/BOSNIA HERZEGOVINA: A double taxation treaty between Austria and Bosnia and Herzegovina has now entered into force. The treaty, which is in line with the OECD model, includes tax withholding rates of 5%/10% on dividends, 5% on interest and 5% on royalties.

BULGARIA: Over the year to Q4 2011 average gross monthly salaries in Bulgaria rose by 8.7%. The sectors with the highest average monthly salaries at the end of last year were information and communication services (1,616 BGN, 826 euros), utilities (1,544 BGN, 789 euros) and financial/insurance services (1,428 BGN, 730 euros).

ESTONIA: The Estonian government has refused to reduce unemployment insurance tax from 4.2% to 3% for 2012 as proposed by the tripartite supervisory board of the Unemployment Insurance Fund. The premiums are set annually and normally follow the board's proposals. However, the Estonian Cabinet has rejected the latest proposal on the grounds that it would not be wise to reduce premiums during a period of economic uncertainty.

GERMANY: Pay talks are shortly due to begin in the German automotive, machinery, metal and electronics sectors - which represents around 3.6 million workers. Germany's biggest union, IG Metall, looks set to make a 6.5% across-the-board wage claim on the grounds that company profitability in Germany has significantly improved over the last year. The current sectoral agreement expires at the end of March 2012.



GREECE: Greece's government has agreed to cut the national minimum wage by 20% and trim both public sector and supplementary pensions in order to secure a further aid package from the European Union and International Monetary Fund.

UK: The UK tax authority (HMRC) has announced that it will be changing the pay-as-you-earn (PAYE) withholding requirements from April 6th 2012. This change means that the 'OT code' must be applied to share-based payments following the issue of an ex-employee's P45 form - as opposed to the basic rate which was previously the case. Ex-employees who subsequently pay too much tax through PAYE as a result of the OT code will have to claim it back through self-assessment.

Other European HR News in Brief

AUSTRIA: The CEO of an Austrian recycling company has been charged with involuntary manslaughter following the death of an agency worker who had fallen from a roof which he had been hired to repair. The case is currently before the district court of Klagenfurt. The Crown prosecutor claims that the accident could have been averted if a proper risk assessment had been carried out.

CZECH REPUBLIC: The European Commission has given the Czech government two months to comply with EU rules on freedom of movement for EU citizens. This is because the Czech Republic currently infringes the Directive on free movement by requiring EU citizens and their families to present a certificate of accommodation when they inform the authorities that they are resident in the country.

FRANCE: The French Supreme Court has given a surprisingly liberal ruling in a case where the working locations and hours of an employee were unilaterally modified by her employer. The employee concerned had been required to work at two sites in the afternoon instead of one site in the

morning. According to the Court the introduction of new working arrangements falls within the legitimate managerial authority of an employer. An employee's right to a personal and family life may only be asserted where that right is excessively undermined (Cass.Soc, 3 Nov 2011, no 10-14.702).

IRISH REPUBLIC: Irish workers with disabilities will be able to draw reduced social welfare benefits whilst returning to work for the first time under a new scheme which came into force on February 13th 2012. The 'partial capacity benefit' will be available to those who are in receipt of an invalidity or illness benefit for more than six months.

ITALY: Employers in Italy are no longer required to inform their Provincial Labour Office (*Direzione Provinciale del Lavoro*, DPL) about any changes from a full-time to a part-time employment contract (Law No. 183/2011). A written agreement between the parties is all that is necessary to make the change lawful.

GERMANY: The aircraft manufacturer Airbus has implemented a controversial new labour agreement that places a 20% limit on temporary staff Airbus may hire to work in its German operations.

NETHERLANDS: Last year investments organised through the Dutch foreign investment agency (NFIA) amounted to 1.4bn euros and gave rise to 4,358 jobs. Half of all projects involved enterprises from Asia, although the USA continued to be the country with the greatest number of investment projects. 20% of all investments related to new European headquarters and examples included Kuwait Petroleum (The Hague), New Zealand dairy cooperative Fonterra (Amsterdam) and contact lens manufacturer Menicon, from Japan (Emmen).



NETHERLANDS: Two Dutch former bank and insurance executives have been found personally liable for the damages that investors suffered following the demise of their company, a Utrecht court has ruled. According to the court, the executives were liable for statements they had made insisting that the company was not experiencing any solvency problems.

PORTUGAL: A new initiative by Portugal's government seeks to counter the country's high rate of youth unemployment. 'Stimulus 2012' will offer state subsidies to employers providing employment to workers under the age of 25. The target is to create 56,000 jobs through the injection of around 100 million euros in state funding.

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