



FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

EU: Taxation of cross-border workers

Germany: Proposals for national minimum wage

Netherlands: Twitter use does not contravene non-solicitation clause

Netherlands: Budget measures to affect employers

Spain: Supreme Court on employee monitoring

Czech Rep: New legislation on company healthcare

Belgium: Government gets serious about equal pay compliance

A new equal pay law has been voted through the Belgian parliament. Although no implementation date has yet been set, this measure has profound implications for employers.

- * In future all collective bargaining must include an agenda item on equal pay,
- * The Ministry of Employment will also verify all job classifications in collective agreements to ensure they are gender neutral,
- * A company's annual report must include a section providing data on the relative salaries of male and female employees,
- * Companies employing more than 50 people will be required to:
 - notify their works councils (or, in its absence the health and safety committee) about gender pay differentials. If this indicates the existence of an equal pay issue, an action plan must be adopted to remedy it, and
 - appoint a mediator to consider complaints on equal pay issues.

ECJ: Unsuccessful candidate not entitled to appointment details

The European Court of Justice (ECJ) has ruled that an unsuccessful job candidate, who claims that they met the requirements for a particular job, is not entitled to have access to details about the appointment that was finally made.

This German case involved a foreign candidate who submitted unsuccessful applications for a job both when it was first advertised and then readvertised. Although the ECJ did not consider this to be evidence, in itself, of discrimination they did point out that a national court could take such facts into consideration when determining whether discrimination had taken place (*Galina Meister v Speech Desin Carrier Systems GmbH*, C-415/10).

EU: Barriers remain for Bulgarian and Romanian workers

With effect from May 1st 2012 Switzerland is temporarily reintroducing immigration restrictions for workers from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. This change does not affect Bulgarian and Romanian workers who had not yet been



given worker mobility rights by Switzerland.

Although Italy removed work permit requirements for Bulgarian and Romanian workers on Jan 1st 2012 ten EU countries continue to impose restrictions and may do so under EU rules until the end of 2013. These are Austria, Belgium, France, Germany, Ireland, Luxembourg, Malta, the Netherlands and the UK – with restrictions on Romanian workers having been reimposed by Spain.

EU: Taxation of cross-border workers

The European Commission has announced its intention to review direct taxation measures imposed by member states on cross-border workers.

The Commission will carry out a thorough review of national direct taxes to determine whether they create unfair disadvantages for individuals who live in one member state and work in another. In particular, it will try to identify if individuals who earn most of their income in a member state other than their home state are taxed more heavily than residents of the host state. Additionally, it will look at how member states apply rules on expense deductibility and tax rates to nonresidents who occasionally work in their territory, compared to the rules applied to resident taxpayers.

Pay, Tax and Benefit Trends

CYPRUS: The Cypriot Labour minister, Sotiroulla Charalambous, has proposed that the national minimum wage be increased from its current entry level of 855 euros to 870 euros a month. If the changes go ahead, the minimum after six months service would also increase from 909 euros to 924 euros a month. Following Cabinet approval the changes would come into effect retroactively from April 1st 2012.

CYPRUS/POLAND: A protocol amending the double taxation agreement between Cyprus and

Poland has recently been signed by officials from both countries. The changes include a new rule that Directors' fees will be taxable only in the state in which the Director is resident. The maximum rate of withholding tax on interest will also be reduced from 10% to 5%.

EU: The European Commission has proposed the introduction of a minimum wage to cover all EU member states. The proposal - for which it has no mandate under the EU treaty - appears in a paper dealing with tackling unemployment and boosting growth. According to the Commission, there is a growing problem of what it calls "in-work poverty". The paper further encourages the use of more hiring subsidies to encourage employers to generate jobs and the shifting of tax away from incomes to areas such as property or the environment.

EU: The European Commission has proposed a new directive to simplify the re-registration of cars moving permanently between EU member states. The proposition would allow for vehicles to be registered in the member state where the owner 'normally resides'. Citizens who move to another EU country would have six months to re-register their vehicle. There will however be exceptions for those who move within the EU to work on assignments for longer pre-defined periods.

GERMANY: Germany's leading coalition party, the CDU, has decided to introduce a mandatory minimum wage covering all sectors of the economy. Agreement has yet to be reached with the other two coalition parties, but the CDU proposal would involve the establishment of a wage-setting body drawn from both sides of industry.

GERMANY: Discussions are taking place in the German government about a proposed program to provide a new benefit extending the current parental leave scheme. If the program were introduced as planned in 2013 the parent



choosing to stay at home would receive 100 euros a month during their second and third year of leave. This would rise to 150 euros a month in 2014.

MALTA: The number of collective agreements in Malta is on the decline. A drop of 6% in 2011 left just 235 agreements covering around 40% of the island's workforce.

NETHERLANDS: The Dutch coalition government has agreed on a number of measures to reduce the country's budget deficit to a target rate of 3%. The austerity package, which has yet to be approved by parliament, includes an increase in the value added tax (VAT) rate from 19% to 21%, a progressive increase in the state retirement age, increased healthcare contributions and making employers responsible for the first six months of unemployment benefit.

NETHERLANDS: The Dutch social affairs minister, Henk Kamp, has confirmed that plans announced last year to require employers to pay two weeks' sick pay for flexible workers have been scrapped.

Other European HR news in brief

CZECH REPUBLIC: New legislation on company preventative healthcare has come into force in the Czech Republic. Further details are available in the [FedEE knowledgebase](#).

DENMARK: A German-based supermarket chain is under fire from its Danish trade unions about several provisions in the company's employment contracts. These include a right for managers to search employees' belongings, lockers and cars at the end of the working day and an obligation to reveal the identity of any third party involved in an employee's injury. If an employee is subsequently absent because of their injury, and the third party is another employee, then the contract provides that the company may deduct from the offending

employee's compensation the cost of hiring a replacement.

EU: The 2011 European Labour Force Survey, just published by the EU's statistical agency Eurostat, reveals that there were 42 million part-time workers in the European Union, 8.6 million of whom wished to work additional hours. The greatest incidences of longer working time aspirations were in Greece (58%), Latvia (57%), Spain (49%) and Cyprus (42%).

FRANCE: Several prosecutions against the French State for denying employees access to justice have been successful in recent years, usually because of lengthy delays in the Industrial Tribunal system. 16 cases have so far been brought before the Paris High Court of Justice for contraventions of article 6(1) of the European Convention of Human Rights. In one case the employee concerned had waited six years for the resolution of his unfair dismissal claim.

FRANCE: According to the French Association of Employment Agencies, Prisme, the number of temporary workers in France fell by 12.7% over the year to March 2012. The biggest fall (15.6%) was in unskilled blue-collar workers, whilst industry and transport showed the sharpest sectoral decline.

GLOBAL: A new ICT platform has been launched that will allow employees to access company data securely on their mobile phones. The HP 'enterprise mobility platform' allows companies to distribute mobilised versions of data-rich Apps that run effectively even when bandwidth is limited.

ITALY: Many of Italy's major companies are having to seek additional main board members in response to a new law prohibiting individuals from sitting on more than one board for companies operating in the same market. Analysts estimate



the new law will affect as many as 1,500 board seats in Italian companies.

LITHUANIA: The EU country to suffer most from emigration to other EU member states is Lithuania. In 2011 alone it lost 2% of its population, with the most popular destinations being the UK and Ireland. Norway has become increasingly popular too - due to its generous social benefits.

LITHUANIA/POLAND: The European Commission has commenced infringement proceedings against Lithuania and Poland for failing to adequately implement the Employer Sanctions Directive (2009/52/EC) which requires measures to be taken against employers who exploit irregular third-country migrants. The Directive targets employers who take advantage of the precarious position of such workers and employ them in what are usually low-paid jobs with poor working conditions. It also strengthens the rights of the individual migrant by requiring employers to pay outstanding wages.

NETHERLANDS: The Hague Court of Appeal has recently held that a recruitment agency employee did not infringe a non-solicitation agreement between himself and his former employer by posting tweets on his established twitter site stating that he was looking for workers in the

finance sector on behalf of his new employer. The court found that the former employee's conduct did not constitute 'maintaining business relations'. It added that the mere act of "following" on Twitter is a unilateral act of the follower and is not specifically initiated by the person posting the tweets.

RUSSIAN FEDERATION: The Russian Federal Migration Service has announced that from now on applications to extend work permits for highly qualified specialist on assignments in Russia must be filed no later than 30 days before the permit expires. Permit holders who are unable to file a timely extension will have to leave Russia and apply for a new permit from abroad.

SPAIN: The Spanish Supreme Court has held that an employer may monitor the personal use of workplace computers provided that employee have been notified that monitoring might take place. The court held that, although the employer in question had not expressly warned employees about possible monitoring, a prohibition on the personal use of company IT equipment stated very clearly that the employee had no right to use company resources after working hours. Therefore, the court held, there was no reasonable expectation of confidentiality and the monitoring was lawful.

FedEE news:

JOBSWORTH APP: Have you checked out FedEE's new Jobsworth App yet? Now you can evaluate and price almost any job on the move – in 47 different countries and territories - <http://www.jobsworth.net/>

COMBATTING DISCRIMINATION AT WORK: You can now buy or rent the FedEE/ACAS training film "Without Prejudice" at a special discount price. But hurry - as the offer is only being made this month. To see the film trailer please go to <http://www.fedee.com/fedee-media/>

IN THE NEWS: FedEE has been quoted or featured in over 150 news and media outlets across Europe during the last six weeks. We have even discovered a correlation between unemployment and the



environment that the BBC has called 'the Heidi theory' .See <http://www.bbc.co.uk/news/uk-scotland-17932383>

Copyright: FedEE Services Ltd 2012

Fédération des Employeurs Européens/The Federation of European Employers (FedEE) is the organisation for international employers operating across Europe. The Federation was founded in 1989 with financial assistance from the European Commission. Our UK postal address is Adam House, 7-10 Adam Street, The Strand, London, WC2N 6AA, UK. Tel: (0044) (0)207 520 9264. Web:<http://www.fedee.com>. We utilise virus scan software, but are not responsible for any problems that may arise from the transmission, receipt or use of any material.

In providing the information contained in this communication, neither FedEE nor any third party authors are rendering any legal, accounting or other professional advice or opinions on specific facts or matters. Before taking any course of action, you are strongly recommended to seek appropriate professional advice. Where this communication is part of an information society service it shall be subject to our standard terms and conditions.

The information transmitted is confidential and intended strictly for the corporate/individual addressee. If you receive this communication in error please notify us as soon as possible and delete it. This message constitutes a commercial communication under Section 7(a) of the Electronic Commerce (EC Directive) Regulations 2002. FedEE's UK Data Protection Notification Number is Z546304X.

The Privacy and Electronic Communications (EC Directive) Regulations 2003: This communication has not been transmitted for direct marketing purposes. However, if you do not wish the address used in this communication to be used again by us for any reason, please inform us by email.