



**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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### Belgium: Changed system of time credits

Further details have emerged about the new Belgian collective bargaining agreement (no.103). This makes several additional restrictions on access to 'time credit' by raising service and age thresholds.

The new provisions distinguish between 'motivated' and 'non-motivated' time credit. 'Non-motivated' time credit will be limited to a maximum of 12 months for those taking a complete break from work, 24 months for a 50% suspension, and 60 months for 20% suspension. It will only be granted to employees with 24 months' service with their current employer and 5 years' service in total with any employer. 'Motivated' time credit is limited to 36 months and can be taken for caring for, or educating, a child. If the child has a disability or is seriously ill, it may be extended to 48 months.

Older employees will only be entitled to an unlimited time credit regime once they have reached 55 years of age and provided they have worked for a total of 25 years.

The new regime is expected to come into force on September 1st 2012.

### ECJ: Linguistic limitations on contracts

The European Court of Justice (ECJ) has concluded that the Belgian region of Flanders may not impose Dutch as the language for international employment contracts, as to do so would hinder the free movement of workers.

The ECJ case which gave rise to the ruling arose from a referral by a Belgian court questioning the compatibility of a Flemish decree with EU law. Advocate-General Jaaskinen advised the ECJ that there is no pan-EU rule harmonising the use of languages in employment contracts. Further to this, the ECJ decided that a law such as the one in question might well discourage applications from candidates residing outside Flanders or the Netherlands (C-202/11).

This case calls into question the legitimacy of other EU countries' language restrictions - such as the requirement in France for all documents relating to employment to be available in the French language.



## France: Annual leave entitlement

A recent decision by the French Supreme Court has changed the position regarding an employee who has been unable to take their annual leave entitlement.

Previously, an employee who brought legal proceedings claiming that their employer had prevented them taking paid annual leave had to prove fault on the part of the employer. However, the latest decision requires employers to demonstrate that they took all necessary measures to allow employees to take their paid leave entitlements. According to the Court, an employer must inform employees of their paid leave entitlement at least two months before the beginning of the leave period, confirm leave dates at least one month before commencement, display such information on the company's premises and ensure that employees take their due leave on schedule (C.Cass 13/06/12, no. 11-10.929).

## Germany: Compensation claims after year end

The German Federal Labour Court of Erfurt has ruled that claims for financial compensation for outstanding annual leave entitlements are no longer automatically forfeited at the end of the year. Employees may still claim compensation at a later date.

This case, which is at variance with an earlier judgment (Az: 9 AZR 652/10), centred on a termination dispute between a Berlin-based middle manager and his employer. The individual had left his employment in December and subsequently made a claim for financial compensation in the following year. This was for 16 days of outstanding holiday entitlements. However, his former employer refused - relying on existing case law which viewed such financial compensation as inapplicable because it was in

respect to a holiday entitlement which had expired at year-end.

## Poland: Employers must check residence permits

A new Polish Act requires companies to ensure that all non-EEA employees, contractors or subcontractors possess valid residency papers before allowing them to work in the country.

Previously residence permit issues were solely the responsibility of the individual concerned. The new Act requires that a copy of the employee's right of residence is retained by the employer for the duration of the employment or contracted work period. Any company employing non-EEA individuals when the new law comes into effect is required to obtain a copy of the right of residence within 45 days (effectively by September 4th 2012).

## Romania: Data safeguards for video surveillance

The Romanian Data Protection Authority has introduced a set of fresh regulations which introduce specific restrictions on the processing of personal data obtained through video surveillance.

The most important features of the Decision 52/2012 are a requirement that the processing of workplace video data is permitted only for compliance with express legal obligations or for a "legitimate interest". If neither of these conditions are met then the processing of such information is only possible with employee consent. The employer must ensure that employees are given notice that video surveillance is in operation and their rights associated with such surveillance. Covert cameras may not be installed and images may be stored for no longer than 30 days - unless there is a good reason to do so.



## Spain: New residency procedures

EEA citizens working or living in Spain for longer than three months must now produce employment, financial, social security and/or medical insurance documents when completing the required in-person registration at their local immigration office or police station.

EEA citizens continue to have the unrestricted right to work and reside in Spain. The new documentary requirements affect only the procedural formalities they must complete when relocating to Spain. Previously, EEA citizens were only required to present a valid passport to register.

## Pay, Tax and Benefit Trends

**FRANCE:** The French Council of Ministers has approved a second series of amendments to the Finance Act 2012. These include a 3% levy on dividends distributed by large companies, an increase in social contributions on profit sharing and company savings plan payments from 8% to 20%, and an increase in the total employer/employee social contributions on stock options and gifted shares from 22% to 40%. A further recently tabled amendment would re-introduce social charges on overtime hours for companies with 20+ employees. If implemented it would be retroactive from January 1st 2012.

**GREECE:** Greece's hospitality and tourism employers have secured trade union agreement to a 15% pay cut, bringing gross minimum earnings down to 568 euros per month.

**IRISH REPUBLIC:** According to the Irish Central Statistics Office (CSO) average hourly earnings in the Irish Republic were virtually unchanged over the year to Q1 2012. More recently unions have rejected a proposed pay freeze at Allied Irish Bank and a staged 3.5% deal at the utility company Bord na Móna. However, a new deal for the Tesco retail chain in Ireland will give

employees a 2% pay increase from January 1st 2013 - the first increase for five years.

**NETHERLANDS:** The Dutch minimum wage has increased with effect from July 1st 2012. The gross monthly minimum wage for full-time employees aged 23 or over is now 1,456.20 euros. This is equivalent to 336.05 euros per week or 67.21 euros per day.

**NETHERLANDS:** The Dutch Senate has approved the 2013 Budget, which includes a number of amendments to the Income Tax Act. Next year progressive income-tax brackets will not be indexed for price inflation. Moreover, the penalty tax which employers must pay on excessive severance payments will be increased from 30% to 75%. Debate continues on the proposed abolition of the tax-free reimbursement of employees' commuting expenses, which - if repealed - would take effect on 1st January 2013.

**RUSSIAN FEDERATION:** A recent report from Adecco has revealed that General Directors' average remuneration packages (inclusive of bonuses and share options) in Russia varied from 250,000 rubles (6,315 euros) in Yekaterinburg, to 500,000 rubles (12,635 euros) in St Petersburg and more than one million rubles (25,265 euros) in Moscow.

**SPAIN:** The Double Taxation Treaty between Spain and Argentina will terminate on December 31st 2012. The decision, which was published in the Argentinian Official National Gazette, will affect cross-border income and is likely to bring an increase in withholding tax rates.

**SWITZERLAND:** The Swiss federal government has recently rejected the introduction of a tax deduction for parents who provide their own childcare. All taxpayers in Switzerland are currently able to deduct from direct federal tax CHF 6,500 (5,411.83 euros) per child each year. Since January 1st 2011, third party childcare



costs have also become tax deductible up to a maximum of CHF 10,100 (8,409.15 euros) - subject to certain conditions.

## Other European HR news in brief

**AUSTRIA:** The EU Temporary Agency Workers' Directive was due to be incorporated into Austrian national law on July 1st 2012 by planned amendments to several federal Acts. These amendments have now been delayed - with a new date for implementation yet to be set.

**DENMARK:** The Danish Board for Equal Treatment has recently ruled - in two separate cases - that advertising for job applicants within specific age ranges is discriminatory. It has further clarified that it is irrelevant that the employer also invited applicants outside of a specified age bracket for interview. In both cases unsuccessful applicants have been awarded compensatory payments for the discrimination they experienced.

**EU:** Consumer (HICP) prices rose across the EU by 2.6% over the year to June 2012. The lowest inflation rates were in Sweden (0.9%), Greece (1.0%) and Bulgaria (1.6%) and the highest rates in Hungary (5.6%), Estonia and Malta (both 4.4%).

**EU:** Between April and May 2012 EU industrial production rose by 0.5%, but declined by 2.3% over the year from May 2011. The largest year-on-year increases were in Latvia (6.0%) and Ireland (4.4%), whereas production fell in Lithuania, Denmark (-14.8%), Italy (-9.2%), Portugal (-6.9%) and Spain (6.1%).

**GERMANY:** Germany has announced that it will begin accepting EU Blue Card applications for assignments with effect from August 1st 2012. The scheme requires that the applicant has a university degree, a firm job offer and work contract in Germany. They must also earn a minimum annual gross salary of 45,000 euros -

although skill-shortage professions such as engineers, IT experts and doctors may earn a minimum annual gross salary of 35,000 euros.

**ITALY:** The controversial Italian Law (92/2012) on unfair dismissals and fixed-term contracts has now become law. Statutory paternity leave has also been introduced for the first time. Fathers are now required to take one day off work on full pay within 5 months of their child's birth. A further two optional days may be taken off at the same daily rate as the state maternity allowance. An additional element of the reform package is the introduction of childcare vouchers for use as an alternative to the taking of parental leave. [Further guidance on the reforms](#) is provided by Uberto Percivalle, Partner, Baker & McKenzie Milan.

**NETHERLANDS:** The Dutch Association of Employment Agencies has concluded a new five-year agreement covering 600,000 agency workers. In addition to guaranteeing equal treatment between temporary and permanent staff by 2015, the deal will secure better training opportunities for lower-skilled agency workers and apply tighter controls to weed out rogue agencies.

**NETHERLANDS:** All companies assigning employees to work in the Netherlands for organisations outside their group must now be registered with the Dutch Chamber of Commerce. This is the case even where the assignment activities do not constitute one of the company's core activities. A recipient company is also liable if they borrow, contract or hire personnel from an assigning company that does not hold the relevant registration. There is, however, no obligation to register for not-for-profit assignments.

**NORWAY:** The Norwegian Ministry of Labour has announced that the EU Agency Workers Directive will be incorporated into Norwegian law in January 2013. Provisions on joint liability between employers and employment agencies for equality



of terms and conditions will be introduced separately on July 1st 2013.

**POLAND:** The Polish Supreme Court has held that a member of a management board engaged under an employment contract may claim

reinstatement if they are unlawfully terminated. In the case in question, the board member was able to claim reinstatement despite the existence of a valid, formal board resolution to dismiss him (III PZP 3/12).

## FedEE news:

**REFERRAL SCHEME:** FedEE is implementing a referral scheme to enable existing members to refer professional contacts from other organisations.

To participate please email the name, position and company name of the person you wish to refer to: [membership.services@fedee.com](mailto:membership.services@fedee.com) and invite your contact to join FedEE using the following link: <http://www.fedee.com/about-fedee/join-fedee> with the reference 'referral' in the comments box.

Should the referred organisation take up membership within a 3 month period, we offer a €125 discount on the annual subscription fee to the new member for the first year, and the same discount to the referring organisation when they renew. There is no limit to the number of referrals that can be made.

Please rest assured that FedEE will not contact the referred organisation directly, or add the information provided to any database or mailing list.

**JSB EMPLOYMENT LAW TRAINING OFFER:** FedEE and [JSB](#) are working in partnership to offer FedEE members a 10% discount on any 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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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.

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