



**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: 'Flanders in action' plan producing results

Belgium's Flemish government is continuing to increase funding for its Flanders in Action (ViA) plan. With a focus on innovation, energy efficiency and international competitiveness this project – which took seed in 2006 – aims to see Flanders as one of the economically most successful regions in Europe by 2020.

Two key objectives of the long-term plan include creating a favourable entrepreneurial climate to encourage start-ups and creating a policy to support fast-growing companies in the region to boost the generation of skilled jobs. The initiative is already seeing positive results (despite the difficult economic climate): last year investment from foreign companies generated 3,740 new jobs – an increase on 2011.

### Europe: Oiling the wheels of workers' free movement

A new proposed EU Directive has been launched by the European Commission that will require Member States to guarantee free movement through a number of concrete, practical

measures. These include the creation of national contact points for migrant workers and better access to the courts in cases of discrimination. Currently, only 3% of the EU labour force (9.5 million people) live and work in another member state. An additional 1.2 million people live in one EU country, but work in another. One of the principal barriers to the free movement of workers is, according to the Commission, that the majority of immigrant workers are not sufficiently informed about their rights as EU citizens.

### Europe: Growing concern over EU data protection proposals

The US Department of Commerce's International Trade Administration (ITA) has hit back at the European Commission's standing Data Protection Working Party's claim that US 'safe harbor' compliance could be compromised if companies relied on data processors using cloud computing. The ITA believes that the same rules apply to all cloud service providers, whether they are located in the EU or an 'adequate' country, or are 'safe harbor'-compliant.



Meanwhile, the proposal to replace the EU's current 1995 Data Protection Directive with a directly applicable regulation that covers the processing of personal data is being bogged down in over 3,000 proposed amendments arising from the European Commission's public consultation exercise. The principal focus for concern is a planned change in consent rules. The existing Directive permits tacit consent as a basis for processing data, provided it is unambiguous. The regulation, however, requires "explicit consent" from an individual - meaning they must actively agree to their data being processed in certain circumstances.

## **Europe: Simplifying the authentication of documentation**

The European Commission has published a draft regulation which aims to reduce the bureaucratic formalities when EU citizens and businesses are called upon to prove the authenticity of documentation issued in another member state. If approved by parliament and the Council of Ministers, this measure will remove the necessity for certified translations, "legalisation" and "apostille" in a wide range of contexts - such as documents relating to residence, marriage, citizenship, the legal status and representation of a company, intellectual property rights and proof that an individual does not have a criminal record.

## **Europe: Mandatory rotation period of auditors increased**

A European parliamentary committee has modified a proposed EU Directive on the appointment of company auditors. The European Commission originally proposed that auditors should be changed every six years, but the parliamentary Legal Affairs Committee believes that this would be too costly and require audit firms to repeat sharp learning curves in order to understand their constantly changing clients. For this reason the limit has been increased to 14 years - or up to 25 years if certain safeguards are in place.

Another modification to the draft Directive has removed the blanket ban on auditors carrying out non-auditory consulting services for their clients. However, key elements of the measure remain intact - such as the prohibition of "big four" clauses requiring a company's audit to be done by one of the top accounting firms, and an obligation on auditors to publish reports according to international standards.

A full parliamentary vote on the draft Directive will take place this autumn, but the measure is unlikely to be put before the Council of Ministers for final approval until at least the summer of 2014.

## **France: Change of heart over treatment of entrepreneurs**

The President of France, Francois Hollande, has announced a series of measures aimed at supporting small and medium-sized businesses and encouraging foreign investments. They are scheduled to come into force in January 2014. The measures include a facility for business owners to sell all or parts of companies and enjoy an 85% exemption from capital gains tax - provided they had held their stake for at least eight years. They may also claim smaller rebates for shorter periods of ownership. There will also be a new "entrepreneur visa" that will fast-track immigration for foreigners seeking to set up an innovative business in France - provided they invest above a certain amount of capital.

## **France: Mind your step with generation contracts**

Under the terms of the French Decree on Generation Contracts which was passed in March 2013, larger businesses are required to act before October 1st 2013 and smaller businesses may decide whether they wish to take a poison chalice offered by the government.

Companies with 300 employees or more must make a formal assessment about the situation of young people and older workers within their enterprise, negotiate a collective agreement (or



develop an action plan) and file this with their Direction Régionale des Entreprises, de la Concurrence, de la Consommation, du Travail et de l'Emploi (DIRECCTE). Failure to do so may lead to them incurring financial penalties. At first glance the decree provides an advantage to companies employing fewer than 300 employees as these may now obtain state aid (4,000 euros per year for three years) if they employ a young person under the age of 26 (or 30 in the case of a disabled worker). However, the contract must be on a full-time basis and be indefinite (CDI). It is also necessary to demonstrate when making the appointment that the position of an older worker (aged 57 or over or 55 in the case of a disabled worker or a new recruit) is being retained. If the older worker resigns shortly after the young worker is hired then the company will lose its state aid and be left with an additional employee on a CDI contact.

## **France: Absence does not suspend notification period**

In a recent judgement, the French Supreme Court has ruled that absence due to injury or sickness does not extend the one-month notification period open to an employer to impose a disciplinary sanction on an employee following a consultative interview about a disciplinary matter.

According to the French Labour Code a sanction cannot be imposed earlier than two working days, or later than one month after the parties have formally met to discuss the disciplinary issue. In the case in question an employee had attended a disciplinary interview and subsequently been taken ill. On the employee's return they were notified of their dismissal on the grounds of gross misconduct – more than one month following the date of the consultative interview.

The Supreme Court ruling overturned the judgement of the Versailles Court of Appeal which had accepted the employer's assertion that in the circumstances the month-long disciplinary notification window had been extended.

## **Greece: An end to civil service job security**

Following pressure from the International Monetary Fund and European Commission, the Greek government has finally streamlined its employment appeals and redundancy processes to allow civil servants to be dismissed.

Civil service jobs have long been protected under a law enacted in the 1880s and then enshrined in the national constitution. Successive governments have added posts to reward party activists without being able to terminate officials already in post. This has meant that the central government administration has grown to 700,000 people in a country with a total working population of just four million people.

## **Pay, Tax and Benefit Trends**

**EUROPE:** A new 5 euro banknote – the first in a series of nine - entered circulation on May 2nd. These notes have improved protection against counterfeiting. The old notes will remain legal tender and can be exchanged with central bankers across the eurozone.

**FRANCE:** Despite attempts to derail its restructuring programme, carmaker PSA Peugeot Citroen has secured backing from the majority of its unions and its works council for a plan that will cut the company's French workforce by 17%. Last month a Paris court rejected a legal challenge to the changes. The militant CGT union had claimed that redundancy packages were not sufficiently generous and that there had been procedural irregularities under collective redundancy rules.

**GERMANY:** The EU's Social Affairs Commissioner, László Andor, has told the German daily Süddeutsche Zeitung that Germany should increase wages in order to stimulate domestic demand and also introduce a national minimum wage for all sectors of its economy. With a distorted logic so commonly employed by EU



officials he argued that Germany's high export surplus should not go hand in hand with an unfair competitive advantage on wages.

**GERMANY:** Agreement has finally been reached between Lufthansa and the trade union Ver.di on pay rises for 33,000 cabin crew and ground staff. The 26-month deal will see salaries rise in two stages by 5.2% for trainees, 4.7% for employees of Systems, Cargo and Technik businesses and 3.0% for Lufthansa AG staff. The changes will now be subject to approval by the union executive on May 14th.

**ITALY:** An industry agreement which reduces the tax on productivity bonuses has been signed by the General Confederation of Italian Industry (Confindustria) and the three principal Italian trade unions (UIL, CISL and CGIL). The agreement builds on a previous deal of June 28th 2011 which sought to bring into effect a government decree introduced by the Labour Ministry.

**ITALY:** Ever since the introduction in Italy of a 2012 law increasing the social security contribution for 'non-permanent' employment there has been uncertainty whether the law applied to "di lavoro a termine" (terminable contracts) as well as "di lavoro a tempo determinate" (fixed-term contracts). Now the national labour inspectorate has issued guidance to employers which make it clear that both employment relationships are subject to the special levy.

**NETHERLANDS:** Company car fleet managers could soon face additional costs if they operate foreign registered cars in the Netherlands. Finance State Secretary, Frans Weekers, is working on a legislative amendment that would impose a road tax on foreign-registered cars, even if they are used for relatively short periods on Dutch roads. Currently no tax is payable for up to one year, but in future only short-term tourist or business trips will be exempt.

**NORWAY:** The budget airline Norwegian Air Shuttle is considering the registration of its new long-haul aircraft in the Irish Republic, following the refusal of the Norwegian Civil Aviation Authority for the airline to hire lower paid staff in Asia. Norwegian regulations only allow domestic carriers to operate with foreign registered aircraft on a temporary basis - so it would eventually be necessary to register the entire long-haul business abroad.

## Other European HR news in brief

**DENMARK:** The Danish government is considering a proposal to change citizenship legislation to allow dual nationality. Currently, although it is possible to gain dual citizenship at birth, a Danish citizen cannot hold citizenship of another country without giving up their Danish passport. Likewise, a foreign national is required to give up their original citizenship in order to gain a Danish passport.

**EUROPE:** The European Commission has still not published its 2013-18 action programme for occupational health and safety. Since 1978 it has published an updated strategy every five years. The delay may partly be due to the 30% reduction in serious accidents that has taken place at work since 1998. However, the latest available figures are for 2007-8.

**EUROPE:** The European Commission has launched an initiative to encourage workplace innovation. The Workplace Innovation Network (EUWIN) is a three year project designed to spread an innovation culture throughout workplaces in Europe by pooling information on best practices. According to the Commission's latest innovation scoreboard Europe's leading countries are Sweden, Germany, Denmark and Finland. The least innovative locations are Poland, Latvia, Romania and Bulgaria.



**GERMANY:** Hamburg is the fourth German state to elect to make October 31st 2017 a special non-working public holiday. This will be to commemorate the 500th anniversary of Martin Luther posting his 95 theses - considered by many to mark the start of the protestant reformation.

**GERMANY:** Germany is rapidly becoming a magnet for skilled workers from poorer EU countries. The number of people from the ailing EU states of Italy, Greece, Portugal and Spain entering Germany to work rose by 8% over the year to February 2013. Over the same period the numbers of workers entering Germany from the central and eastern European countries that joined the EU in 2004 jumped by 27%. The biggest influx of such workers was from Poland.

**NETHERLANDS:** The Dutch coalition government is poised to enact provisions that would criminalise the residence of non-EEA nationals who lack a residence permit. This would mean that, in future, illegal immigrants could be fined and imprisoned rather than deported. However, opposition is rising within the PvdA coalition party against the proposal.

**SLOVAKIA:** Companies should beware of a Slovak-based company calling itself the "Patent Trademark Register" which is sending out

invoices for entry on its database. In spite of its name this organisation has no official status and relies on busy corporate finance departments not examining the small print of its communications. Such scams are also exploiting a loophole in EU laws such as the Distance Selling Directive (Directive 97/7/EC) which exclude business to business transactions.

**SWITZERLAND:** As we predicted in our last newswire (25/04/2013) Switzerland has employed the "safeguard clause" provided for in its 1999 freedom of movement agreement with the European Union. Quotas now apply to the issuing of long-term work permits to all citizens of the European Union (with the exception of Romanians and Bulgarians who are already subject to a transition period). This limitation will last for at least a year.

**UK:** The head of information security at the London-based Economist Media Group has told a recent conference on infosecurity that her organisation has used innovative techniques to boost staff awareness about IT risks. This included running a competition where employees were issued with a raffle ticket for each phishing email that they forwarded to their IT department.

## FedEE news:

**3<sup>rd</sup> ANNUAL PAN-EUROPEAN HR FORUM:** FedEE Secretary General Robin Chater will be chairing the 3<sup>rd</sup> Annual Pan-European HR Forum on 23<sup>rd</sup> and 24<sup>th</sup> 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](http://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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