



PRESS RELEASE

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The Federation of International Employers (FedEE) writes

The Law isn't working

The first in a series of releases on the failures of employment law.

A cornerstone of civilization is a fair and equitable legal system. But what about the legitimacy of laws if they are not applied by the very agencies that create and enforce them? That unfortunately is the case across many parts of the globe today and is of particular concern for multinational enterprises that so often become the easy victim of such arbitrary acts.

Pay Fixing

Interfering with wage competition

Many governments across Europe not only allow a corrupt process of wage fixing, but they actively conspire in its enforcement upon companies.

If two companies colluded together to set the price of paint, the consumer would suffer. But what about if the government not only let the collusion happen but even declared the inflated price of paint as the minimum for all paint companies? That would be so damaging to markets that the economy would suffer and inflation would rise uncontrollably as the practice was adopted for other commodities. It is precisely against such price fixing that the US Sherman Act was passed in 1890 and why in most advanced economies today anti-trust laws exist to stop such practices.

But, if two unions sat down with two thriving companies in France and fixed the price of labour at an unrealistically high rate that would be entirely legal, a sign of good "social partnership" and no-one would challenge the government when it stepped in, as it usually does, to make the wage rates applicable across the entire industry sector. The fact that the parties had colluded to keep wage rates high and thus make it more difficult for smaller companies and new companies entering the market would not be seen as a valid legal challenge, nor would be the impact of inflated labour rates on commodity prices paid by all consumers. In fact, this practice is rife across much of Europe - including not only France, but Austria, Denmark, the Netherlands and Sweden.

The Treaty of the Functioning of the European Union bans all forms of anti-competitive behaviour and lays down strict rules for state aid, yet the act of conspiring to maintain



inflated wages and the state enforcement of wage cartels goes unchallenged.

Fortunately, this practice of enforcement of wage cartels by governments may be on the wane. One of the few advantages gained from the Greece and Portugal bailouts was that it gave the IMF an opportunity to quietly stop this anti-competitive practice. It is falling into disuse too in Croatia and Slovenia. There are also a few individual challenges at a country level - like the recent Dutch case involving inter-hospital collusion over the overtime rates for anaesthesiologists.

According to The Secretary-General of the Federation of International Employers (FedEE), Robin Chater, *"This is just the beginning. Europe is over a century behind the USA in ensuring that anti-competitive practices apply as much to wage rates and the actions of trade unions as they do to the sale or wholesale price of goods and services. Few people realize that colluding to inflate wages for a few workers raises the cost of living for everyone. Unions cannot believe their luck when generous offers are put on the table, but it is the poor and old who, in fact, suffer most in the end."*

FedEE is particularly concerned about France where union membership is the lowest in Europe, yet, according to Chater, *"The French government allows radical unions such as the CGT and grossly overpaid occupations such as air traffic controllers to hold them, and the country, to ransom. For many years, the price of peace has been to let the corruption continue and give it government backing."*

The answer probably lies through the courts, although the chances of pursuing an anti-trust challenge to labour practices through the French legal system to reach an eventual European Court of Justice decision remains remote. Ultimately, all kinds of labour practices could fall foul of anti-trust legislation - from HR managers meeting to swap salary data to all sectoral collective agreements that fix the price of labour - whether or not there is government intervention to compound the problem. In the meantime, consumers in many EU member states will have to continue bearing the artificially high costs of goods and services brought about by wage fixing.

For further information please contact FedEE Press Office on press@fedee.com and 0044 203 608 4412.

What is FedEE?

The Federation of International Employers (FedEE) is the leading organisation for multinational companies. It was founded in 1988 with financial assistance from the European Commission. Today it is an independent body with corporate members all around the globe.