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Europe: Obesity can be considered a disability

Obesity may constitute a disability under the EU Employment Equality Framework Directive according to the European Court of Justice (ECJ).

Under EU law there is no general principle that forbids employers from discriminating on the basis of obesity in the labour market. However, the ECJ has now held that if the worker's obesity entails a long-term limitation which results from physical, mental or psychological impairments which — in combination with other barriers — may hinder the full and effective participation of the worker in their professional life on an equal basis with other workers, such obesity may fall within the scope of 'disability' within the meaning of EU law.

The decision follows the opinion of the Advocate General Jääskinen, given in July. This case will now be sent back to the Danish Courts to assess whether the individual in question's obesity can be classified as a disability. [C-354/13]

France: Payslips to be simplified, gradually

French governmental ministries have released a statement about the simplification of payslips, which will take place gradually over the next two years.

As of January 1st 2015, volunteer companies will test a simplified payslip model which will contain less information about employers' deductions. Throughout 2015, the payslip will continue to be simplified through a reduction in references to wage levies, collector organisations and leave entitlements. This new payslip will be available to all companies from January 1st 2016.

Additionally, there will be changes to payroll. Payroll will be radically simplified through the issuing of a registered social declaration on January 1st 2016. This will replace almost all social declarations and will reduce the amount of information requested from businesses by 75%.

Norway: Plans to amend temporary work rules

Changes to the rules on temporary employment have been proposed by the Norwegian Labour Ministry.

The proposed draft law would establish a right to general temporary employment for up to 12 months, with no special conditions attached to this right. At present, individuals may only be employed on a temporary basis either to substitute another worker or to perform seasonal work.

Nevertheless, there will be certain limitations to the right to general temporary employment. For example, a company would not be permitted to employ more than 15% of their employees on general temporary employment contracts, although temporary employees covering permanent employees who are on sick or parental leave would not be counted towards this figure. In addition, the company will not be able to enter into a subsequent temporary contract with the same person or another person to perform the exact same job.

The government decided not to make changes to the rule that employees are entitled to permanent employment after four years on temporary contracts.

Serbia: Protection for whistleblowers introduced

Under new legislation in Serbia, individuals who report corruption in connection with their employment — irrespective of their status within the company — will be protected from persecution for reporting the illegal activity.

Under the Whistleblowers Protection Act, which was recently endorsed by the Serbian Parliament, if an individual suffers any detriment as result of reporting

company corruption, they will be able to make a claim to a competent higher court and go through a quick procedure to ensure they are protected. The court will then enforce a temporary measure in order to reinstate the individual or to prevent adverse action being taken.

An employer must not, through an action or omission, put whistleblowers or anyone connected to the whistleblower at a disadvantage, particularly in relation to employment, education, training or professional development. Whistleblowers must not suffer any detriment when it comes to promotion, performance appraisals, work scheduling, working conditions, disciplinary penalties, salary and termination of their employment contracts.

The law will enter into force in six months' time.

Switzerland: New quotas for work permits

Pursuant to an amendment to the Swiss Ordinance on Admission, Stay and Employment, the Federal Council of Switzerland has approved measures to reduce the number of work permits available to both EU/European Free Trade Association (EFTA) nationals and non-EU/EFTA nationals. These new quotas will become effective as of January 1st 2015.

For EU/EFTA nationals, the quota for L permits (short-term work) will be reduced from the current 3,000 permits to 2,000 permits in 2015. Similarly, only 250 B permits (long-term work) will be available. At present, the quota on B permits is 500. These permits will be allocated to the Swiss cantons each quarter.

For non-EU/EFTA nationals, only 4,000 L permits (short term work) will be issued in 2015. This is 1,000 fewer than currently available. Additionally, in 2015 only 2,500 B permits (long term work) will be issued. The quota on these permits in 2014 was 3,500. It is

important to note that half of these work permit quotas will be assigned by individual Swiss cantons and the other half by the Swiss Confederation.

In light of this amendment, employers should submit work permit applications in good time to ensure they obtain any permits they require.

UAE: Revisions to labour law promised

Saqr Gobash Saeed Gobash, the UAE's Minister of Labour, has announced a number of plans to amend the country's labour law. The plans will be submitted to the Cabinet and then to the Federal National Council.

The Ministry hopes to encourage more workers to join the private sector by ensuring that employees in the private sector receive pay and benefits comparable to those received by employees in the public sector. At present, it is not clear whether this will mean employers will have to pay higher wages or if the government will be offering subsidies.

Other important amendments include a reduction in the amount of annual leave employees will be entitled to and a change in end of service benefits. Changes to maternity leave are also likely to occur.

The Ministry will ensure that the new legislation will apply to employees in the free zones. Such employees are currently excluded from the labour laws.

UK: Changes to taxation of employee benefits

The UK Finance Bill has now been published and is subject to consultation until February 4th 2015. Most of the measures published in the Bill were announced in the Chancellor of the Exchequer's Autumn statement.

The Bill also reconfirms announcements made in the Budget 2013 and 2014 and public consultation processes.

The draft law makes a number of changes to the taxation of benefits in kind. The 8,500 pound (10,780 euro) threshold for benefits in kind would be eliminated and tax relief on reimbursed business expenses paid in combination with a salary sacrifice scheme would no longer be available. These changes would come into effect in April 2016.

Additionally, the legislation would establish a statutory exemption from tax for benefits in kind not exceeding the value of 50 pounds (63.45 euros). Employers would not be obliged to report these benefits on the form P11D or on pay-as-you-earn (PAYE) settlement agreements at the end of the year. At present, employers have a duty to inform the HMRC of such benefits or agree with HMRC that the specific benefit could be categorised as trivial. This change is due to come into force on April 6th 2015.

In the Autumn Statement, it was announced that the government would look at overarching contracts of employment, used by 'umbrella companies' (companies that employ workers on fixed-term contracts for third-party clients), which give some temporary workers tax relief on home-to-work travel expenses that is not normally available to other workers. The government has said it will publish a discussion paper on this matter to determine what appropriate action should be taken.

Other measures that are included in the Finance Bill involve changes to company car tax rates and the establishment of an option for employers to collect tax on benefits in kind and expenses in real time through their payroll.

UK: Unfair dismissal claims involving social media

A UK Employment Tribunal judge's decision to uphold a claim of unfair dismissal for the misuse of social media has been held by the Employment Appeals Tribunal (EAT) not to stand.

Although the EAT recognised that there must be a balance of interests between the employer's desire to limit reputational risk from social media posts made by its employees and the employee's right of freedom of expression, it found that, in this case, the judge had failed to fully consider the public nature of Twitter when making his decision. The EAT refused to give any specific guidance on how such claims should be dealt with, however, stating that the outcome of such claims will depend on the individual facts of the case. [2014 UKEAT 0188_14_0311]

As social media is a relatively new phenomenon the laws relating to its use and abuse in the workplace are not yet fully developed. However, the case law in this area is quickly evolving. For examples of how the courts and tribunals have dealt with cases involving social media over the past few years in a number of jurisdictions around the world, please see our guidance note '[Case law on social media](#)', which can be found in our Knowledgebase.

USA: New restrictions on changing work schedules

The San Francisco Board of Supervisors has approved two ordinances which would impose restrictions on the right of retail chains in the region to alter their employees' schedules at short notice.

The two ordinances, commonly known as the San Francisco Workers Bill of Rights, will require so-called

formula retailers — defined as chains with at least 20 employees in the city of San Francisco and 20 or more locations worldwide — to inform their employees two weeks in advance of any modifications to their working schedule. If the employer makes changes to an employee's schedule without providing two weeks' notice they will have pay 'predictability pay'. This can amount to up to four times the employee's regular hourly rate. If an employee is required to be on-call but is not called in to work, the employer must provide the worker with between two and four hours' pay.

The law also provides enhanced protection for part-time workers to ensure they are not discriminated against. Employers must pay part-time employees the same starting hourly wage rate as comparable full-time workers and they must also have comparable rights in terms of leave and opportunities for promotion. Any extra hours should be offered to current part-time workers, rather than hiring new workers.

Approval by the Mayor, Edwin Lee, is still required for the ordinances to take effect. It is expected to enter into force in Summer 2015.

Pay, Tax and Benefit Trends

BRAZIL: The Legislative Assembly of São Paulo in Brazil has approved an increase in the state's minimum wage. This will affect approximately 8 million private-sector workers whose minimum wage is not set by federal law or collective bargaining agreements. In 2015, the minimum wage in São Paulo will increase to 905 Brazilian real (352 US dollars) for domestic and agricultural workers, elevator operators and couriers, and 920 Brazilian real (358 US dollars) for machine operators, postal workers, hairdressers and tourism workers. The new minimum wage rate will be effective from January 1st 2015.

FRANCE: The National Assembly in France has voted to increase the tax paid by retailers who have commercial premises exceeding 2,500 square metres by 50%. This measure — part of the draft 2015 budget Bill — has been met with opposition by large retailers, who have retaliated by suspending the implementation of the agreement on generation contracts. This agreement was signed in mid-November between employers and trade unions providing for the recruitment of 30,000 employees who are younger than 26 years and 1,600 employees over the age of 50 in the next three years.

ISRAEL: An agreement has been concluded in Israel to raise the national minimum monthly wage in the private sector. The national minimum wage will be raised gradually over the next two years from 4,300 Israeli new shekel (1,081 US dollars) to 5,000 Israeli new shekel (1,257 US dollars).

ITALY: Italy's Minister of Economy, Pier Carlo Padoan, has publicly confirmed that the Italian government will cancel, as of January 1st 2015, the part of IRAP (regional tax on production) which is calculated on the labour costs of permanent employment. It is estimated that this will reduce the tax burden on those businesses employing a large number of workers by 30%.

NORWAY: Statistics Norway has produced a series of statistical reports regarding average monthly earnings, excluding overtime pay, for a number of sectors. As of September 1st 2014, full-time employees in the wholesale and retail trade sector earned on average 39,300 Norwegian krone (4,285 euros) per month. Full-time employees in the real estate sector earned an average monthly salary of 51,700 Norwegian krone (5,637 euros) and employees in the administrative and support service sectors earned an average monthly salary of 36,800 Norwegian krone (4,012 euros).

PERU: The congressional commissions of economy and labour in Peru recently approved a proposed draft law regarding collective dismissals and bonuses. Under the draft law, the threshold for collective dismissal for economic reasons would be reduced from 10% to 5% of the company's payroll. Additionally, productivity bonuses of up to 20% of annual remuneration would be exempt from being calculated as part of the Compensation for Time in Services (a benefit involving the deposit of 8.33% of wages, including bonuses, into an account). The full Congress will now debate these measures.

SLOVAK REPUBLIC: According to an amendment to the Slovakian Labour Code, temporary agency workers must receive the same pay and working conditions as their colleagues directly hired by the user company, provided that they fulfil the same or similar job duties. The principle of joint responsibility will also be established for these workers; if there is a discrepancy in terms of salary, both the agency and the user company will be responsible for compensating for the difference in remuneration. The amendment will come into force in June 2015.

SOUTH AFRICA: The Johannesburg Labour Court has dismissed a claim submitted by the National Employers' Association of South Africa to stop a wage agreement, agreed between certain employers and unions in July, from being extended to the rest of the metals and engineering sector. Under the three-year wage agreement, workers will receive a pay rise of 8-10% in the first year, 7.5-10% in the second year and 7-10% in the final year. Once extended, this agreement will apply to over 10,000 companies and 200,000 employees.

SPAIN: The average cost of labour in Spain, including salaries and social security contributions, amounted to 2,450.10 euros in Q3 2014, according to the National Statistics Institute. This is a 0.4% decrease as

compared to Q3 2013. On average, employers paid 585.61 euros in mandatory social security contributions per employee per month in Q3 2014 — 1.6% more than they paid in Q3 2014.

USA: Overturning a decision by a lower court, the US Supreme Court has held that workers at warehouses do not have to be paid for time spent undergoing mandatory security and screening checks after their shifts. The Supreme Court held that the time employees spend in queues for the screening process — which workers claimed could be as long as 20 to 25 minutes — is not an integral and indispensable part of the employee's job and, as such, no compensation needs to be paid by the employer. [Integrity Staffing Solutions, Inc v. Jesse Busk and Laurie Castro No. 13-43].

Other Global HR News in Brief

DENMARK: Since May 2008, foreign companies providing services and posting employees to Denmark have had a duty to report certain information on the Register of Foreign Service Providers. The Danish Ministry of Labour is proposing to double the fine for companies that fail to comply with this requirement more than once, to 20,000 Kroner (2,687 euros) from March 1st 2015.

EUROPE: The European Agency for Safety and Health at Work has created an e-guide, which aims to help employers manage occupational stress and psychosocial risks. The guide can be accessed in a variety of national versions. Please see the following webpage for the full guide: <https://www.healthy-workplaces.eu/en/tools-and-resources/a-guide-to-psychosocial-risks>

GERMANY: The German Federal Labour Court (BAG) has held that an employee cannot automatically claim for a 'good' overall assessment of their performance in employment references. In general in Germany, an

employee's performance will be assessed by the employer using a system of A (very good), B (good), C (satisfactory) D (adequate), etc. Reversing the judgment of the Regional Labour Court of Berlin-Brandenburg, the BAG ruled that it is for employees to prove that they had an above-average work performance (i.e. deserve a grade above a C) and it is for employers to prove below-average work performances. The BAG confirmed that an employer must be generous but truthful in giving employee references. [2014-9 AZR 584/13]

HONG KONG: Hong Kong's Equal Opportunities Commission has now finished its review of existing discrimination laws, which included a period of public consultation. Operational experience of the Commission has shown that inequality still exists and some provisions in the current discrimination laws are ineffective. Proposals put forward to rectify this involve reforming prohibited conduct, increasing the fields and scope of protection and dealing with inconsistencies regarding sectors in which discrimination is prohibited. The Commission will write a report including recommendations in 2015.

NETHERLANDS: According to Statistics Netherlands, 45% of all employees in the Netherlands were absent from work for at least one day in 2013 as result of illness. In nearly 25% of cases, the cause of sickness was partly or mainly work-related. Cases of work-related absence were common in the hotel and restaurant, education and construction sectors.

ROMANIA: January 24th has been announced as a new annual public holiday in Romania, as of 2015, to celebrate the union of Romanian principalities.

SERBIA: The Law on Employment of Foreigners has been adopted by the Serbian Parliament and is now in force. Under the Law, foreign workers may enter into temporary and occasional contracts of employment for a period of up to three months in a 12-month period.

Temporary residence may be granted to a non-national for longer than 90 days for the purpose of employment and the performance of economic or other professional activities.

SPAIN: The Labour Inspectorate in Spain has detected that 60% of the 43,400 employees who underwent an inspection in the first 11 months of 2014, worked extra hours illegally. This is a 264% increase since 2013. In total, 422 companies were found to be in breach of working time laws in 2014 and are now facing fines. In 2013, 371 companies were fined. In cases of overtime a company will only pay one penalty for violating the law, regardless of the number of employees who have worked overtime illegally.

UAE: Employers in the UAE who have accumulated fines for failure to issue or renew labour cards (work permits for non-UAE nationals) will be given an opportunity to clear their fines in the New Year. Outstanding fines will be reduced to 1,000 dirhams (272 US dollars) per employee and employers will have a six-month grace period, from January 4th to June 30th 2015, to pay off their fines. Once this grace period has elapsed, an additional 500 dirhams (136 US

dollars) will be due for each month of delay.

Additionally, as of January 4th 2015, a fine of 500 dirhams per month per employee must be paid by employers who fail to provide contracts of employment to the Labour Ministry within 60 days of the employee entering the UAE. For more information on labour cards please see the section on [work and residence permits](#) in the UAE in our Knowledgebase.

UAE: The UAE Ministry of Labour has announced that January 1st 2015 will be a paid public holiday for all private sector employees in order to mark the New Year.

USA: Overturning a previous decision from 2007, the US National Labor Relations Board has ruled that employees who have access to a company-owned email system have a presumptive right to use their email accounts for union organisation purposes outside of working time. The Board did, however, state that this is a rebuttable presumption — employers may, in limited cases, be able to demonstrate that specific circumstances warrant a ban on non-work email use by their employees. [Purple Communications, Inc., 361 NLRB No. 126]

Dates for your diary:

January 1st 2015: [France](#) implements new hardship accounts. See the Knowledgebase for more information.

January 1st 2015: [Germany](#) introduces its first ever minimum wage of 8.50 euros an hour.

January 1st 2015: Personal training accounts, credited with 20 hours of vocational training time per year, will be created for every worker in [France](#).

January 1st 2015: The minimum wage increases in all four wage zones in [Vietnam](#). National minimum wages also increase [Brazil](#), the [Czech Republic](#) and in the [Netherlands](#).

January 1st 2015: Extensive labour reforms come into force in [Latvia](#).

January 1st 2015: The monthly minimum wage for full-time garment workers increases to 128 US dollars in [Cambodia](#).

January 1st 2015: From this date, payslips in [Austria](#) will have to include all bonuses (including 13th and 14 month bonuses), allowances and overtime pay.

January 1st 2015: In [Denmark](#), companies employing at least ten full-time employees, including at least three men and three women, will be subject to gender-based wage statistic rules.

Latest news for business travellers:

As a result of the UK's involvement in Iraq and Syria, the UK Foreign Office has issued a [worldwide](#) travel warning to British travellers due to the high risk of terrorism against UK citizens.

Business travellers should be aware that stormy weather conditions are expected along the Mid-Atlantic coast of the [United States](#) this coming weekend (December 20th to 21st). Exact details of timing, location and severity are not yet known, but it could cause severe travel disruptions.

Check-in staff and cargo handlers in [England](#)'s major airports have voted to strike, with a possible two day strike occurring on December 23rd and 24th. Disruptions are expected at Heathrow, Gatwick and Manchester airports.

Travellers should pay close attention to their personal security when in [Trinidad and Tobago](#) due to current high levels of serious crime.

Occasional violent clashes in the Xinjiang Uyghur autonomous region of [China](#) have caused the Canadian government to issue a warning to its citizens about traveling to this region. Due to attacks using explosive devices, firearms and knives, travellers are advised to exercise a high degree of caution.

Heavy rain continues to affect travel in many parts of [Morocco](#), especially around Agadir.

FedEE news:

ADVICELINE ENQUIRY FORM: Please note that all enquiries on matters of employment law, pay data or other HR-related issues must now be submitted via our new [Adviceline Enquiry Form](#) which can be found on the top toolbar in the Members' Area.

CHRISTMAS OFFICE CLOSURE: FedEE's offices will be closed over the Christmas period from Wednesday, December 24th 2014 until Friday, January 2nd, inclusive. All online material will remain accessible during this period. The next edition of the newswire will be published on January 15th 2015.

We wish all our members a very happy Christmas and New Year.

NEW GUIDANCE NOTES: We have just published two new guidance notes on [trade unions](#) and [trade union trends](#) around the world. These are accessible in our [guidance notes section](#) of the Knowledgebase. You will also find in this area of the Knowledgebase a recently updated guidance notes on [post-termination non-compete clauses around the world](#).

NETWORK WITH OTHER FEDEE PROFESSIONALS — AND MORE: FedEE's new face-to-face networking community (called butN) is now 'live' and both members and non-members have started signing up for it around the world. This is a good opportunity to meet other professionals — particularly during business trips. The community also needs your support to make it thrive. Join up today at <http://www.but-n.com>.

FOLLOW US: Follow us on [Twitter](#), [Facebook](#) and [LinkedIn](#) for news on upcoming events and discussions on global employment law and HR issues.

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