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FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

Denmark: No cases referred to equal pay tribunal

The Danish tribunal established to deal with disputes concerning equal pay has not yet heard a single case - six months after it was set up.

The tribunal was set up to deal with the interpretation of the Equal Pay Act, its possible violation and the incorporation of the law's provisions into industry agreements. Social partners have come to the view that a number of factors may explain the lack of claims. Firstly, only companies with more than 35 employees, and with at least 10 men and 10 women working in the same area, have a legal duty to produce gender-based wage statistics. In addition, the Danish system for resolving industrial conflicts through a series of mediation meetings remains a highly effective approach.

EU: Parliamentary support for Single Permit Directive

The Civil Liberties and Employment Committees of the European Parliament have voted in favour of a Single Permit Directive, which will give migrants from third countries who are working legally in the EU the same status as EU nationals, to enjoy comparable working conditions, social security and access to public services.

This measure would simplify administrative requirements for third-country nationals by enabling them to obtain work and residence permits through a single procedure and provide them with a standard set of rights comparable to those enjoyed by EU workers - such as decent basic working conditions, recognition of educational and professional qualifications and access to social security provisions.

If the draft Directive should become law it would still not prevent individual EU member states from deciding how many non-EU nationals they would admit each year or what additional conditions they would apply to the employment of such workers.

France: Works councils may meet via video conferencing

The French Supreme Court has decided that meetings of Central Works Councils could, in certain circumstances, take place via a video conference.

The case in question dealt with a 'virtual meeting' which was organised unilaterally by the management of L'Oreal Cosmetique without the approval of the relevant trade union. The Court held that there was no reason to render the meeting invalid, but issued guidelines on what constitutes a valid video conference. It stated that it must be possible to see all the participants in the meeting and all parties must consent to the use of video conferencing (even if this is merely by not actively objecting). In addition, it would not be appropriate to use this approach if a secret ballot may be necessary at any point in the proceedings.

Hungary: Labour code changes may not prevent wage hike

The Hungarian parliament has approved a new Labour code which will come into effect on July 1st 2012. The code allows the government to establish different minimum wages based on business sector, geographical area and other criteria linked to the labour market. The government plans an 18% increase in the minimum wage rates next year - more than four times the cabinet's 4.2% average inflation forecast for 2012.

The Labour Code amendments also include a provision which raises the maximum amount of annual overtime from 200 to 250 hours, with a cap of 300 hours for working time arrangements agreed through a collective agreement.

Italy: Fiat presses ahead without principal union

The automotive manufacturer Fiat SpA and Fiat Industrial SpA have signed a collective labour agreement with trade unions representing the majority of their 86,000 Italian employees. The new deal will allow the company to go ahead with a 20bn euro investment plan, conditional on the acceptance of longer shift periods and shorter work breaks. Workers' base salaries will rise by 5.2% and they will also will also receive a 600-euro production bonus in 2012 and be paid 10% more for overtime.

Fiat workers will have to ratify the agreement during the next two months through ballots at each plant. However, Fiom Cgil - the carmaker's biggest union - has refused to sign up to the deal and unless they can be brought on-side in the near future their exclusion could jeopardize the entire restructuring project.

Netherlands: Accrual of holiday entitlement

New Dutch legislation regarding holiday entitlement is due to come into force on January 1st 2012.

This legislation imposes a new, shorter period within which statutory holiday must be taken and removes the current limit on accrual of holiday for sick employees. Employees will have to take accrued - but untaken - statutory holidays arising from January 1st within six months of the end of the calendar year in which they were accrued. If they fail to do so, the leave will lapse. However, the six month limitation period will not apply if an employee has not had a reasonable opportunity to take the statutory holiday. It also does not apply to holidays that exceed the statutory minimum. The limitation period for these days remains five years from the year in which they were accrued.

Additionally, from January 1st, sick employees will accrue holiday during the whole period of sickness absence and not only during the last six months - as is currently the case.

OECD: Increasing incidence of mental health problems

A new report published by the Organisation for Economic Cooperation and Development (OECD) has identified an increase in incidences of mental illness in the workplace.

One in five workers now suffer from a mental illness such as depression or anxiety. It also identifies that absence from work is more frequent for workers with mental illness, and that around 30-50% of all new disability claims in OECD countries are now attributed to mental ill-health. Individuals with a mental disorder are also two to three times more likely to be unemployed than those without such a health issue.

Poland: Annual leave carryover rules to change

On January 1st 2012 Poland will introduce new legislation affecting the rules governing the carryover of unused annual leave from one year to the next.

Currently the Polish Labour Code provides that employees must use any outstanding annual leave by March 31st of the following year. The new legislation will extend this deadline by six months to 30th September of the following year. It is not clear how employers should treat outstanding holiday for 2011 as there are no transitional provisions in the legislation. The State Labour Inspectorate has issued initial guidance on this point stating that it will not be until 2013 that the new carry-over provisions effectively apply.

UK: Ruling on offshore workers' holiday entitlements

The UK Supreme Court has upheld previous rulings of the Court of Session and the EAT which maintained that the statutory holiday entitlement of a group of workers employed on off-shore oil rigs was capable of being satisfied by the provision of regular onshore 'field breaks'.

In coming to its decision, the Court rejected the workers' request for a reference to the European Court of Justice on the meaning of 'annual leave' under article 7 of the EU Working Time Directive. The claimants argued that 'annual leave' meant a release from all work-related obligations and that the occasional requirement to attend medical appointments or training courses during onshore rest periods prevented this. The Court disagreed and stated that the employer has no obligation to permit them to take annual leave during periods when they would otherwise be required to work offshore (Russell and ors v Transocean International Resources Ltd and ors).

Pay, Tax and Benefit Trends

BULGARIA: The Bulgarian social partners have not yet reached agreement on next year's social security thresholds in 35 of the 85 employment sectors where they are established. The thresholds act as a sectoral minimum wage in many industries and were introduced to stop employers paying contributions on the basis of the national minimum wage, rather than an employee's true pay level. If agreement cannot be reached for the remaining sectors, then the current average sectoral increase of 7% will be applied to all the outstanding sectors.

EU*:* National governments across the European Union (EU) have reacted strongly against a proposed 1.7% increase in pay for staff employed in EU institutions. Denmark, France, Germany, Hungary, Italy and the UK are leading opposition to the increase, even though the European Court of Justice ruled last year that member states have to accept salary adjustments proposed by the European Commission - provided they are backed by reliable data. The Commission's proposal is based on changes in salary levels of national civil servants in eight member states, plus the rate of inflation in Belgium (where most EU officials reside).

HUNGARY: The Hungarian government may have to foot a total bill of 105 billion forints (344.4m euros) to fulfil its promise to compensate private companies for mandatory wage increases that exceed 5%. The incentive was established when private companies were required to increase gross pay levels so that net salaries were not reduced as a result of changes in the tax system.

IRISH REPUBLIC: The Irish 2012 budget has amended the rebate on statutory redundancy payments. They will be reduced from the current rate of 60% to 15% - with effect from January 1st 2012. This will make redundancies a much more costly exercise for employers from the start of next year.

NETHERLANDS: The Dutch government is poised to adopt a proposal drawn up by the Party of Freedom that will severely curtail the power of trade unions. Currently sectoral pay deals in the Netherlands are negotiated with employer associations and then put to a vote of union members. The resulting pay scales are then applied to all companies operating within the sector. Under the revised rules, negotiated rates would have to be approved by the entire workforce in the sector concerned before they could be declared mandatory on all companies operating within it.

RUSSIAN FEDERATION: A new provision amending the Russian Tax Code enters into force on January 1st 2012. This applies a 13% tax rate to dismissal packages paid to a company director, deputy director or chief accountant that exceed three months' salary. The types of payments covered are severance pay, salary paid during a notice period and any other compensation paid to an employee due to the termination of their contract (Federal Law no 330-FZ).

SLOVENIA: From January 1st 2012 all companies in Slovenia will be required to pay the national minimum wage in full. A transitional option for companies to pay rates below the minimum was established following a major rate hike in February 2010. It was taken up by around 1,600 employers.

SPAIN: A new Spanish Royal Decree has been approved which will ensure that domestic staff are paid the minimum wage per month. From 2012, anyone employing domestic staff must pay social security contributions from the first hour worked - instead of being exempt from paying for the first 20 hours, as is currently the case. In addition, domestic workers must receive at least the minimum wage and discounts for food, lodging and any other benefits may not amount to more than 30% of salary (as opposed to the current 45%). Domestic employees must be given written employment contracts and the maximum working day will be nine hours.

UK: New state benefit rates will come into force in the UK on April 9th 2012. Statutory maternity, paternity, adoption pay, and maternity allowance will increase from £128.73 (152.80 euros) to £135.45 (160.79 euros) per week, whilst statutory sick pay will increase from £81.60 (96.87 euros) to £85.85 (101.91 euros) per week.

UK: According to a new survey from the consultancy company Mercer, average contributions to UK defined contribution pension schemes have stagnated recently as companies face tough market conditions and auto-enrolment. Employer contributions have remained static at an average of 7.2% since 2009, whilst pension scheme member contributions have dropped from 4.6% to 4.2%.

Other European HR news in brief

BULGARIA: Recent research carried out by the international recruitment firm Manpower has revealed that only one in seven Bulgarian companies plan to hire new staff during the first quarter of 2012. Job growth is expected to be greatest in finance, business services, insurance, real estate and utilities (+12%) and job numbers are expected to decline in retail and wholesale trades (-20%) and construction (-17%).

FRANCE: The so-called French 'Cherpion' law regulating the hiring of interns has recently come into force. The law requires the signing of a tripartite contract between employer, intern and their educational establishment, limits the duration of internships, stipulates a monthly payment and sets rules on the probationary periods for subsequent employment. Internships must not involve tasks that could be undertaken by a worker holding a permanent position within an organisation and training must be offered to participating individuals.

For a fuller explanation of the new provisions, please see: http://www.fedee.com/fedmembers/kb/questions.php?questionid=2114 .

GERMANY: German labour minister Ursula von der Leyen is set to consult the federal cabinet on the future of the Blue Card immigration scheme. It is likely that the income level for a settlement permit will be reduced to 33,000 euros for skilled workers in sectors with a large number of unfilled posts. For other sectors, the level will probably be reduced from the current 66,000 euros to 44,000 euros.

IRISH REPUBLIC: The Irish minister for jobs, enterprise and innovation, Richard Bruton, has published a consultation paper on reforming employment rights and industrial relations structures. The principal aim is to create a new integrated two-tier structure to replace existing employment rights bodies. This would simplify and make more cost-effective the mechanism for resolving workplace disputes and grievances.

NETHERLANDS: The Dutch FNV trade union federation is to be disbanded and a new organisation called De Nieuwe Vakbeweging (New Union Movement) is to be launched next year. This decision by the FNV's 19 member unions follows internal dissent over its President's decision to support government pension reforms - a situation compounded by outspoken rivalry between its President and Vice-President.

SPAIN: The Spanish government has approved a redundancy procedure presented by the telecoms giant Telefonica which will affect 6,500 employees. The measure has been previously agreed with the employees' representatives and is linked to the signing of a new collective agreement. However, the sting in the tail for the company is that the deal leaves it with an obligation to reimburse the government for some of the costs associated with consequent unemployment benefits.

UK: The UK Home Office is set to give employers access to a new service which allows them to check a migrant's visa details online. The scheme will be available from 2012 and will help companies that hire foreign workers in good faith to avoid large fines imposed for employing immigrants from outside the EU who have fraudulent or invalid work permits. The system of biometric residence permits will also be extended from March 2012.

FedEE news:

The FedEE office will be closed from Friday, December 23rd 2011 until Tuesday, January 3rd 2012 inclusive. Our next newswire will be published on January 12th 2012. We hope that all FedEE members enjoy a very happy seasonal break.

If an urgent matter should arise during this period please contact admin@fedee.com or email the Secretary-General directly (robin.chater@fedee.com). We shall be checking incoming correspondence on a daily basis.

'WITHOUT PREJUDICE'

FedEE Media's first training film **'Without Prejudice'** is now available for sale or hire. The training pack consists of the 26-minute film about workplace racial discrimination, a 14-minute filmed discussion about the film involving leading experts from ACAS, the TUC and Baker & McKenzie and a full set of trainer's notes.

A trailer for '**Without Prejudice'** may be viewed at http://www.fedee.com/trailer.php

FedEE member companies may view both films on approval. Just complete the online order form provided below the trailer window and insert into the order number or comments section the words "Seven-day approval please." If you return the film within seven working days there will be no charge. If you retain it beyond that period we shall invoice you at the reduced member sale price.

To read a recent review of the film by People Management magazine, please go to:
http://www.peoplemanagement.co.uk/pm/articles/2011/12/review-without-prejudice.htm

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