



**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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### EU: Shortcomings in Right to Return provisions

The European Commission has decided to refer the Dutch government to the European Court of Justice (ECJ) for failing to protect the rights of employees on maternity, adoption or parental leave when they return to work.

The EU Gender Equality Directive provides an explicit right to return to the same job or to an equivalent post and enjoy any improvements in terms and conditions introduced during their absence. Although the Netherlands has incorporated recent legislation amending the definitions of direct and indirect discrimination, there is still no general provision under Dutch law that allows employees to return to their former job - or for women returners to receive no less favourable treatment when returning from maternity leave. Neither, in the Commission's view, is there adequate protection when workers from either gender return from paternity or adoption leave.

### Finland: Framework agreement blocks pay cuts

Although Finland's President Sauli Niinistö has taken a personal pay cut of 20% and called for general wage constraint, there is little scope for pay cuts or freezes until the current 25-month national framework agreement comes to an end. This provides for pay rises this year of 1.9%. The earliest date that the agreement can be terminated is October 31st 2013.

Last month an opinion poll commissioned by business weekly Talouselämä found that just 5% of Finns were prepared to take a pay cut. This is in sharp contrast to a recent Ipsos opinion poll in Sweden which found that 61% of respondents would agree to a cut if doing so meant that they would not be faced with redundancy.



## **Germany: Grey area removed from CCTV use rules**

A Bill on workplace surveillance first agreed by the German Cabinet in 2010 has at last reached its final reading stage before the Bundestag.

The proposed law requires companies to inform their employees if surveillance is being undertaken. No cameras may be mounted in changing rooms, sleeping areas or restrooms (except where a restroom is also used for conferences) and the purpose of CCTV devices must be for security and not to monitor employee performance. However, the legislation also gives employers the right to collect information about prospective employees from social networks and credit reference agencies.

## **Germany: Ordered pay system to justify differentials**

A government Commission in Germany has recommended a number of changes to the corporate governance code.

Currently, each year listed German companies must state that they are in compliance with the code and also publish details of executive pay in their annual report and accounts. The Commission now wishes to go beyond these obligations through the inclusion in the code of a requirement for Supervisory Boards to take into account the pay of other employees when approving top executive pay levels. This proposal falls short of setting specific limits to those on the management board, but it does underline the need for top jobs to be remunerated using a credible job evaluation system.

## **Italy: Payments must continue longer than planned**

In the past, many companies made settlement agreements with departing older employees in Italy that provided interim payments equal to the

eventual pension they would receive when they reached state retirement age.

This year, however, the retirement age (for those with 20+ years social security contributions) has risen to 66 years three months for men and 62 years three months for women. This means that employers will have to continue the payments to some employees for longer than expected. The Italian government is examining ways that some relief may be able to be provided in these circumstances, but no scheme has so far been announced.

## **Poland: Court frustrates employee dismissal procedures**

The Polish Supreme Court has handed to trade unions a new right which could prevent employers from dismissing individual employees, or delay the dismissal process.

The Trade Union act (1991) requires employers to cooperate with trade unions in a number of fields - including procedures for the dismissal of trade union members. It has become commonplace in recent years for employers to request from trade unions a list of their members so that it will no longer be necessary to consult unions where an employee is not a union member.

In a recent Supreme Court case it was found that the refusal of a trade union to supply a list of its members on data protection grounds did not remove the requirement to consult a union before dismissing any employee to determine if they are a union member. This therefore means that all employees could enjoy advance warning, via a trade union, of an impending dismissal. If the employee immediately decided to go on sick leave they would be automatically protected from termination until they returned to work.



## Poland: Extended leave for working parents

The total period of statutory maternity and parental leave in Poland will increase to 12 months with effect from September 2013. Maternity leave will then consist of 20 weeks ordinary maternity leave, plus six weeks of additional leave per child born.

Paid parental leave (at a rate of 60% of their former salary) will subsequently be available to one parent for up to a further six months.

Once both leave periods have been expended either parent may opt to take up to a further 37 months unpaid childcare leave - which may be taken in up to five periods, provided each period lasts for at least one month. During childcare leave an employee will continue to accrue their annual holiday entitlement.

## Russian Federation: Smoking ban almost universal

Russia's lower house of parliament, the State Duma, has voted in favour of a ban on smoking in public places, with effect from June 1st 2013. However, smoking will still be allowed on trains and in hotels until 2014. A partial ban already exists in Russian workplaces, where employers may provide smoking lounges for employees taking work breaks.

Smoking in the workplace is now regulated across much of Europe. But some exceptions still exist - such as in some German Lander (states) and in countries where certain conditions must be met. For instance, in Austria where smoking may take place if all affected employees agree to it and in Switzerland where smoking may only take place in single-person offices. There are also countries (such as Bulgaria) where the ban has been widely resisted by smokers - and other countries (such as the Czech Republic and Portugal) where smoking bans have been badly enforced.

## Pay, Tax and Benefit Trends

**ESTONIA:** The Estonian Supreme Court has ruled that all workers posted to work in Finland must be paid wage rates in line with Finnish collective agreements. Where no agreement is in place "reasonable standard wages" must be paid. The case before the court involved construction workers paid 8.0 euros per hour by contrast with equivalent Finnish rates of 10.3 to 11.3 euros an hour.

**GERMANY:** The German publishing company De Gruyter has reached agreement with its shareholders and works council to launch an employee profit share participation plan. The scheme will run initially for six years, during which time employees may acquire plan certificates via the payroll system. These will entitle employees to benefit from stock appreciation and to receive dividends. Moreover, any trading losses will be limited proportionately to the value of the certificates held.

**GERMANY:** Talks have resumed in Germany between the power supply company E.ON and the unions Ver.di and IG BCE. The unions have suspended a threatened walkout after extensive talks had not led to agreement over changes to future pay rates. Both unions are claiming rises of 6.5% for the company's 30,000 strong German workforce, but E.ON's latest offer is 1.7%.

**GLOBAL:** The era of low cost production through offshoring to China is set to end in the next decade. Leading the way is Guangdong where the minimum monthly wage will jump by 19% to 1,550 yuan (186.12 euros) on May 1st 2013. The Chinese government has announced that the national minimum wage will rise to 40% of the average urban pay level by 2015 and predicts that real average incomes across the country will double by 2020.



**SLOVAKIA:** The former general flat-tax rate of 19% in the Slovak Republic is now restricted to incomes below 34,401.75 euros. Incomes above that threshold will be taxed at a new rate of 25%. The rate of corporation tax has also risen from 19% to 23%.

**SPAIN:** The automotive company Nissan has secured agreement with its Spanish unions which opens the way for further expansion of its plant in Avila near Barcelona. The deal is similar to that reached by Renault last autumn - with starting salaries set 20% below current rates and a limitation on further wage increases.

**SPAIN:** International Airlines Group has gone ahead with its plans to shed 3,807 jobs at Iberia as part of its "transformation plan". The plan involves a reduction in fleet capacity, suspension of unprofitable routes and salary reductions of 23% for pilots and cabin crew and 11% for ground staff.

## Other European HR news in brief

**EU:** The European Commission will publish its winter economic forecast on February 22nd. This will provide two-year projections for GDP, consumer price inflation, employment and public budget deficits in all 27 EU states and some candidate countries.

**EUROPE:** The action by Hewlett-Packard's Works Council (EWC) against the company before the Brussels Labour Court has been withdrawn following informal negotiations between HP and the EWC's lawyers. The Council had contended that employees had not been correctly consulted about CEO Meg Whitman's plan to cut 8,000 jobs in Europe.

**EUROZONE:** Latvia is the latest country to seek entry to the euro currency zone. A formal application is likely to be made by Prime Minister Valdis Dombrovskis early next month with a view

to eurozone entry on January 1st 2014. In spite of requiring a bailout last year Latvia now meets the Maastricht Convergence Criteria that qualifies it for consideration by the European Central Bank.

**FRANCE:** The Paris-based international insurance company Groupama has recently concluded a new European Works Council (EWC) Agreement. The company's original agreement dates back to 2000, but subsequent revisions and changes in the legal framework for such bodies have necessitated a fundamental redrafting of the text. The latest document clarifies when issues should be handled at a national or EWC level, it establishes the office of EWC Secretary and Deputy Secretary (one to be based outside France) and establishes a common database to serve both company management and employee representatives.

**ITALY:** The time limit in Italy for bringing claims for the unlawful use of fixed-term contracts has risen from 60 days to 180 days. Similarly, a claim for unfair dismissal must now be made within 270 days of the dismissal taking place - up from 180 days.

**ITALY:** For many years employers in Italy have required employees to sign an undated resignation letter when they are first hired. Although resigning employees were required last year to confirm their resignation the window for responding to the request or revoking the resignation is now just 7 days. It has therefore often been possible to take advantage of this time limit - especially when the employee is preoccupied with their recently discovered pregnancy or a demanding project. The Italian statistics institute has estimated that as many as 800,000 such blank letters remain in employers' hands.

**NETHERLANDS:** The Dutch FNV union federation is undergoing a major restructuring exercise and this could lead to the loss of 500 jobs at the three biggest unions - FNV





Bondgenoten, FNV Bouw and Abvakabo FNV over the next three years.

**NORWAY:** There is growing opposition in Norway to the requirement that the foreign (non-EEA) spouse of a Norwegian citizen must currently earn at least 242,440 kroner (32,632.60 euros) to become a resident in the country. According to the Norwegian Minister of Justice, Birgitte Magnus Weyde, "the income requirement encourages young people to take responsibility for their financial situation and guarantees that the foreign partner is provided for."

**POLAND:** It is no longer an obligation to notify the regional labour inspector and sanitary inspector in Poland when a company is first established, changes office or the nature of its activities. Working time regulations have also changed to extend the "settlement period" (during which working time periods are averaged) from 4 to 12 months, provided that the change is for technological or operational reasons and it has been agreed by the company's trade union(s) or a representative group of employees.

**RUSSIAN FEDERATION:** The Russian Federal Migration Service (FMS) has approved the establishment of voluntary immigration patrols to operate in Moscow. The patrols will assist the FMS in checking the papers of foreigners at workplaces, railway terminals and other areas popular with immigrants. The 300-strong force will wear a special crimson-coloured uniform and officially only be able to search and detain suspects with the specific authority of an FMS officer.

**SPAIN:** A number of leading Spanish security companies such as Prosegur, Securiber (Securitas), Segur Iberica and Eulen have decided to take advantage of recent labour law reforms and opt out of their sectoral collective agreement. This move has been opposed by Spanish trade unions, CC.OO, UGT and USO that plan to focus their protests on Prosegur - as it is

the largest private security company in the country.

**SLOVAKIA:** The Slovak Republic has significantly expanded the availability of multiple entry visas for Ukrainian citizens and widened its categories to include most business travellers. If an individual has never received a Schengen visa then their initial visa will be issued for between six months and two years, but if they have already been issued with a Schengen visa then they may apply for a multiple entry visa for two-five years duration.

**SPAIN:** The High Court in Madrid has ruled that an employer who wished to make substantial changes to working conditions must have been able to substantiate the grounds for the changes by reference to the economic, organisational or production problems directly affecting the company. General trading conditions, the economic downturn or changes in legal obligations affecting company profitability do not, in themselves, justify such changes. Furthermore no change is possible without first consulting employee representatives.

**UNITED KINGDOM:** Since the Corporate Manslaughter and Corporate Homicide Act 2007 came into force there have been 141 corporate manslaughter cases instigated by the UK's Crown Prosecution Service. Although 56 prosecutions are ongoing there have, so far, been only three convictions.

**And on a lighter note - FRANCE:** The French government has finally repealed a law banning women in Paris from wearing trousers. Although unenforced within living memory, the 213-year-old law forbade women in Paris to dress as men unless they were riding a horse or a bicycle. Under a measure introduced during the aftermath of the French revolution, women were otherwise required to first obtain permission from the police before wearing trousers in a public place.



## FedEE News

**PAN-EUROPEAN HR FORUM:** FedEE's Secretary-General, Robin Chater, will be chairing the first day of this conference in Berlin on May 22<sup>nd</sup> and 23<sup>rd</sup>, 2013. For further details about the event and to secure your place visit <http://www.eurohr.eu/speakers/>

**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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