



FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

Europe: New Directive on intra-corporate transfers

France: Employers permitted to ban alcohol at work

Germany: Acceptance of an employment contract in a foreign language

Norway: Parents given more choice on who takes parental leave

UK: Deduction of pay for failure to work notice period

Irish Republic: Whistleblowing legislation now in force

France: Employee entitled to set up in competition with their employer

Finland: Limited powers of Ombudsman for Minorities challenged

Europe: New Directive on intra-corporate transfers

EU member states, with the exclusion of the UK, Ireland and Denmark, have until November 29th, 2016 to adopt a new Directive on intra-corporate transfers.

The Directive introduces permits to allow non-EU employees, under certain conditions, to work in employer branches or subsidiaries established in an EU member state for longer than 90 days. The maximum duration of an intra-corporate transfer will be three years for managers and specialists and one year for trainee employees.

Intra-corporate transferees may also be permitted to work in one or more EU states, other than the one to which they were originally assigned during their assignment. This may be permitted either on a short-term basis (less than 90 days in a 180-day period) or a long-term basis (more than 90 days in a 180-day period).

Europe: Collectively agreed working time and leave statistics

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) has recently published a report that analyses collectively agreed working time in 2013.

According to the report, in 2013 full-time workers worked nearly 1,712 hours, taking into account collectively agreed weekly hours, leave and public holidays. The average collectively agreed weekly working time was 38.1 hours which was the same as in 2012. However on average, the working week was 30 minutes shorter in the pre-2004 EU15 countries and over 90 minutes longer in the post-2004 EU Member States in 2013.

Collectively agreed paid annual leave entitlements were on average 25.4 days across EU member states — in EU15 states, employees had 26.8 days and in newer states workers only had 20.8 days. Employees in France and Germany enjoyed up to 40 days of leave in 2013, including public



holidays. In contrast, workers in Estonia, Hungary, Poland and Romania only had 30 days and Belgium had 29 days of leave in 2013.

Finland: Limited powers of Ombudsman for Minorities challenged

Finland has been referred to the European Court of Justice for not granting its Ombudsman for Minorities the power to deal with racial discrimination in employment cases.

Under the Racial Equality Directive, EU states must set up a national equality body to provide assistance to victims and carry out independent surveys. However, Finland's Ombudsman has not been granted powers to fully investigate discrimination disputes in the field of employment. Instead, any claims regarding discrimination in the workplace are transferred to the occupational health and safety inspectorate.

The European Commission has criticised the Finnish government's current proposal to change their Non-Discrimination Act, as it still does not ensure compliance with European directives on racial equality. Despite the fact that the Commission has discussed the matter at length with Finland, there has not been any concrete progress.

France: Employee entitled to set up in competition with their employer

The Supreme Court of France has held that an employee was not in breach of his implied duty of loyalty to his employer by preparing to begin a competing business activity while still employed.

The employee in question was still employed when he set up his own company, which was in direct competition with his employer. However he did not begin operating commercially until the day after his last day of employment. The creation of the commercial activity was not contrary to any

clause in the employee's contract of employment and no unlawful action was taken to poach staff or attract custom. Given all these facts, the Supreme Court found that the employee's actions did not constitute unfair competition. [No. 13-11114]

Germany: Acceptance of an employment contract in a foreign language

The German Federal Labour Court has held that an employee's signature on an employment contract will be considered a valid acceptance of its terms, even if the contract is written in a language that the employee does not understand.

A Portuguese employee had signed a contract written in German following negotiations in Portuguese — despite his inability to understand German. Later in the employment relationship, disputes arose over the remuneration disclaimers contained in the German contract.

The Court considered that there had been reasonable opportunity for a translation or explanation of the contract to have been requested. Further, both parties had been aware of the potential risks associated with the employee signing a contract he did not understand. As a result it was held that the contract was valid and enforceable. [5 AZR 252/12 (B)]

Irish Republic: Whistleblowing legislation now in force

The Protected Disclosures Act 2014 entered into force in the Republic of Ireland on July 15th 2014.

The new law will protect employees who report concerns regarding wrongdoing in the workplace in all sectors. It will cover all employees, contractors and agency workers. The law provides a wide range of wrongdoings including criminal activity, threats to workers' health and safety and violations of legal obligations. Significantly, there is no good faith or public interest test that could



dissuade employees from making protected disclosures. Whistleblowers whose employment is terminated because they raise concerns of wrongdoing may be able to claim up to five years' remuneration in compensation.

UK: Deduction of pay for failure to work notice period

The UK's Employment Appeals Tribunal (EAT) has held that an employer was entitled to make a deduction from an employee's final salary because they did not work the notice period. A clause to this effect, which the EAT found to be valid, was included in the employment contract.

The employee in question resigned from her position. Believing she had accrued annual leave entitlements, she refused to work her notice period. However, her employer claimed that she did not have sufficient leave outstanding and would therefore be required to work. As the employee did not work her notice period, the employer deducted one month's pay to cover this period, in accordance with the terms of her employment contract.

The employee claimed that the clause acted as a penalty for leaving her position of employment and, as such, dissuaded her from doing so. The employer claimed that it reflected the loss that arises when an employee breaches their contract of employment and they need to find a replacement.

The EAT ruled that, in this particular case, the employee had not been able to sufficiently establish that the contractual clause operated as a penalty. It could therefore be enforced. The EAT was clear, however, that each case will be determined on the individual facts and that this case should not set a precedent allowing employers to deduct sums equivalent to the notice period. [Li v First Marine Solutions and another UKEAT/0045/13]

Pay, Tax and Benefit Trends

ESTONIA: The 'working person's register' has now come into force in Estonia. Throughout the months of July and August the Estonian tax authority will be conducting large-scale investigations into whether employers have been registering each new employee before they commence work. They will impose fines on those who have not complied from the second week of July.

EUROPEAN UNION: In its latest 'Taxation Trends in the European Union' report, the European Commission has pointed out that labour taxes were the main source of tax revenue in 2012 in the majority of EU member states. The highest labour taxes were in Sweden (58.6%), the Netherlands (57.5%), Austria (57.4%) and Germany (56.6%). The lowest were in Bulgaria (32.9%), Malta (34.6%), Cyprus (37.1%) and the United Kingdom (38.9%). In 2012, the overall tax-to-GDP ratio in the EU stood at 39.4% — a slight increase from 38.8% in 2011. The overall tax ratio in the eurozone rose to 40.4% in 2012, from 39.5% in 2011.

FRANCE: Under a new French law, interns working for more than two months will earn 523 euros a month (15% of the social security threshold) from September 2015. Currently, employers pay interns 436 euros a month (12.5% of the social security threshold). There will be an increase of 43.50 euros in September 2014 and 43.50 euros in September 2015. Interns should be also registered onto a specific section of the company's payroll. If legal requirements are not observed, employers may face fines of up to 2,000 euros for each intern affected by the non-compliance and 4,000 euros for any subsequent offence within a period of one year.

FRANCE: Provisions on employee trial periods in the French Labour Code have been amended. Where the employer terminates the employment



relationship during the trial period the applicable notice periods must be complied with or the employee will be entitled to compensation. This is only excused where the employee has committed a serious offence. The compensation received must be equivalent to the total wages and benefits they would have received had they worked until the end of the notice period. It must also include payment in lieu of paid holidays. [Ordinance 2014-699 of June 26th 2014]

ICELAND: According to Statistics Iceland, average wages increased by 1.9% in the first quarter of 2014 when compared to the previous quarter. The largest wage increase occurred in the construction, wholesale and retail trade sectors (3%). However, wages only increased by 1.4% in the transport, storage and communication sectors. When compared with the same period in 2013, average wages in the private sector rose by 5.7% in 2014.

ITALY: Italy's National Institute of Social Security has introduced a new, automated procedure for the classification of employers for social security and welfare purposes. The new system is capable of assigning, in real time, the employer's identification number, statistical contribution code and any authorisation codes that may have an effect on the type and extent of employer contributions due. The classification is based on the employers' self certification. In most cases, the classification of employers will happen automatically at the time of submission of the application. The application must, however, be submitted within 45 days of the first engagement of employees. Applications from employers engaging in certain activities are also excluded from the automated process.

NETHERLANDS: The Finance Minister of the Netherlands, Eric Wiebe, has proposed a number of measures to simplify the system of employee benefit taxation. Under the proposals, all items such as mobile phones, laptops and tablets may

be bought by an employer for an employee without incurring tax, provided it is necessary for their work — it will no longer matter how much the device is used for personal use. The distinction between compensation and benefits will also be removed and employers will only have to pay tax on these costs once per year instead of once per tax period. The proposed measures are expected to come into force on January 1st 2015.

TURKEY: On July 1st 2014, the national minimum wage in Turkey increased from 1,071 liras (368 euros) gross per month to 1,134 liras (390 euros) gross per month.

UK: The UK government has published draft regulations that give employment tribunals the power to order employers, who have breached equal pay legislation, to carry out and publish equal pay audits. The tribunal will not order an audit in certain cases, such as if an audit has been conducted in the past three years or the business employs fewer than ten employees. In cases of non-compliance, a penalty of up to £5,000 (6317.97 euros) for each breach may be imposed on employers. It is expected that the regulations will enter into force on October 1st 2014.

Other European HR News in Brief

CROATIA: Its original proposal having been rejected by parliament, the government of Croatia has now approved final proposals to amend the Labour Act. The proposal is a significant compromise compared to the proposal submitted in January 2014. Under the final proposed amendments, working hours will be limited to 50 per week, except where a collective agreement provides for a working week up to 60 hours. Temporary agency workers will benefit from greater employment protection and measures will be introduced to ensure employers adhere to labour regulations.



CZECH REPUBLIC: The latest information from the Czech Republic's Labour Office shows that in May 2014 only nine employers reported collective redundancies to the country's labour offices. These redundancies affected 511 workers. This is the lowest number of collective redundancies recorded in one month in the past year and a half. Most of the redundancies were reported by employers in the Prague and South Moravian regions.

EUROPEAN UNION: The European Commission has announced plans to withdraw a proposal which would amend the Pregnant Workers Directive. Under the proposal, minimum maternity leave would be increased from 14 to 20 weeks. The draft directive was adopted at first reading by the European Parliament in 2010, but it has not advanced in the legislative process in almost four years.

FRANCE: A new decree allows employers in France to ban consumption of alcoholic beverages in the workplace. Until now, the Labour Code provided that no alcoholic beverage other than wine, beer, cider and perry were allowed in the workplace. The new decree, however, adds an additional paragraph to the law, allowing employers to limit or prohibit the consumption of these drinks where the consumption of alcohol is likely to harm the safety and physical and mental well-being of workers. Such a rule, which may be included in the company's internal rules or implemented in a memo, must be proportionate to the aim pursued. The decree came into force on July 4th 2014.

GREECE: According to reports, the Greek government is planning to introduce a number of changes to the regulation of strikes and union members' rights. The anticipated proposals are likely to require 51% of union members to vote in support of a strike for it to be legal. They would also reintroduce the right for employers to take lockout measures. Although opposition parties

have expressed their dissent, the measures are expected to be finalised by the end of the year.

GREECE: The Greek Development Ministry has agreed to trial Sunday shop opening in a number of regions. The affected regions will include the city centres of Athens and Thessaloniki, as well as popular tourist destinations Rhodes, Mykonos, Kos and Santorini. The trial will be reviewed in Spring 2015.

NORWAY: In Norway, the amount of parental leave reserved specifically for one parent has been reduced from 14 to 10 weeks for both mothers and fathers. The eight weeks previously allocated to a particular parent may now be taken by either parent.

POLAND: As Summer draws on, employers in Poland are reminded that they must compensate for the negative effects posed by working in hot weather conditions. If the temperature exceeds the acceptable norm, employers must provide employees with cold drinks, prevent high temperatures in rooms in which work is performed and protect employees against glare from the sun on computer screens. If an employer fails to comply with these provisions the National Labour Inspectorate may impose a fine or refer the case to court. The fine will be between 1,000 zloty (241.35 euros) and 30,000 zloty (7240.65 euros). Employers may also choose to introduce additional or longer rest breaks, shorten working time or give permission for the worker to leave work. If employers decide to do this, however, they may not reduce an employee's remuneration.

UK: In the UK, all employees with a minimum of 26 weeks' continuous service are now entitled to request flexible working. ACAS have released a [Code of Practice](#) for employers and an [accompanying guide](#). The Department for Business, Innovation and Skills has also released the [application form](#) to be used by employees in their requests for flexible working.



FedEE News

PAY IN EUROPE 2014: The 13th edition of Europe's most comprehensive review of remuneration levels has just been published by FedEE. Pay in Europe 2014 provides median pay figures for 32 job positions in 47 different countries and territories in Europe. The figures are expressed as gross hourly rates and exclude bonus, commission, 13th/14th month payments and benefits in kind. Download a copy of Pay in Europe 2014, [here](#).

FEDEE GOING GLOBAL: FedEE is going global and as such you will notice a number of changes occurring over the next few months. The most significant of these will be the change of our name to the Federation of International Employers. In order to bring you information and support for key jurisdictions around the world we are joining forces with both Baker and McKenzie and the Multilaw network. We will be broadly expanding the geographical coverage of our HR knowledgebase and our law programme will be extended to cover a number of Latin American countries. In addition, we shall soon be offering a range of packages to help you keep up to date with developments in employment law — such as a periodic review of your employment policies to ensure on-going legal compliance. For news of the latest developments, please see announcements on our website and in the newswire.

TRAINING FILM OFFER: FedEE's professionally produced training film on workplace racial discrimination is now available on special offer at just £59.94 (+ VAT where applicable, free P&P). To purchase a copy while this offer lasts please follow the following link to our online [eShop](#).

REFER A COLLEAGUE TO FEDEE AND WE WILL DISCOUNT YOUR MEMBERSHIP FEES: Don't forget our 'refer a friend' scheme. If you refer a colleague from another company to FedEE we will discount your company's next-due membership fee by £100 for each new member that comes out of your referral. To refer a colleague contact Angelika Rivero, with their contact details on memberships@fedee.com.

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