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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:

Europe: Education not providing necessary skills for employment

According to a recent Eurobarometer survey, 73% of EU citizens agree that their education and training has provided them with the skills required to find a job that matches their qualifications. The rate of agreement was above average in Sweden (87%), Denmark (86%), Germany (85%) and Austria (83%). 23% of EU citizens, however, believe that their education and training has not given them the skills needed to find a job corresponding to their qualifications. This was the opinion of 43% of respondents in Greece and 38% of respondents in Spain.

In relation to working abroad, 56% of respondents believed that their qualifications would be acknowledged in other EU states. A small proportion (6%), however, stated that they had tried to work or study abroad but were not able to do so. This was mainly because their qualifications were not recognised by their prospective employer or education institution, or because they had insufficient information on recognition of qualifications in other Member States.

Europe: Changes to wage-setting mechanisms during the economic crisis

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) has produced a report on the impact of the economic crisis on wage-setting mechanisms in the EU states plus Norway.

The report reveals that there have been significant and multiple changes in wage-setting mechanisms in Cyprus, Greece, Ireland, Portugal, Romania and Spain. These countries all received financial assistance during the economic downturn, and changes to wage-setting mechanisms were required under the terms of the bail-out packages in all of these countries except Spain. There have also been some changes in Croatia, Hungary, Italy and Slovenia as driven by their governments or employers and trade unions. For the majority of EU states, however, there have not been any considerable changes.

Where changes in wage-setting took place, these occurred in a range of different areas including the main levels of bargaining, extension agreements, minimum wage-setting agreements and indexation mechanisms. One effect of the changes to wage-setting mechanisms was a reduction in the number of collective wage agreements concluded since 2008.

France: Unilateral variation of employment contracts

Two recent Supreme Court judgments in France have confirmed that unilateral variation of an employment contract by an employer does not necessarily justify judicial termination of the contract.

In one of the two cases, the employer had changed the method of calculation of remuneration without the agreement of the employee. The change did not, however, have an adverse affect on the employee's remuneration levels. The second case concerned a reduction in just a small element of the employee's remuneration. In both cases the Court ruled that the unilateral modifications were not serious enough to prevent the employment relationship continuing. [Cour de cassation, n° 13-11448 and n° 12-29063]

An employer may impose a change in working conditions on its employees (in certain cases and with the exception of protected employees), however, an employer may not unilaterally modify an employment contract without the express agreement of the employee.

Germany: Employers' duty to review company pensions

A recent decision by the German Federal Labour Court confirms that employers have a reasonable amount of discretion as regards increasing company pensions.

German law states that employers must review every three years whether company pension payments should be adjusted in line with inflation. However, the recent decision of the Labour Court confirms that companies may take into account their economic situation when making this decision. If employers believe that they cannot pay the inflation adjustment from the company earnings in the next three years, they will not be forced to pay higher pension payments.

In this particular case, the employer had adjusted the occupational pension in accordance with inflation for many years, but stopped doing so because of the economic crisis. The company was incurring losses and was relying on funds from the Financial Market Stabilization Fund. The Court concluded that the employer was justified in not increasing company pensions. [2014-3 AZR 51/12]

Italy: Ruling on validity of notice of termination

The Supreme Court of Italy recently ruled on a case concerning validity of notification of termination.

In this case, the point of contestation was whether or not one of the two disciplinary letters sent to the employee had been duly received. The Court of Appeal found that the letter had not been duly received because the envelope did not state the name of the recipient, only the name of the club she had elected as her place of residence. This is despite the fact that the letter had been physically delivered to the employee's daughter.

The Supreme Court, however, disagreed, referring to the presumption of knowledge as contained in Article 1335 of the Civil Code. This article provides that any statement sent to a particular person will be considered known about from the moment it arrives at the address of the recipient (provided they cannot prove that, for no fault of their own, it was impossible for them to know about it). The Court pointed out that the letter had been delivered to the place chosen by the employee.

Furthermore, the Supreme Court stated that, in this particular case, two disciplinary warnings were not required — the complaint was serious enough to justify termination after just one warning. The appeal was therefore upheld. [Case number 12195/2014]

Lithuania: Recent amendments to the Labour Code

New amendments to the Lithuanian Labour Code, relating to strikes and collective agreements, entered into force on July 1st 2014.

The amendments introduce a new principle on how employment contracts and collective agreements should be interpreted. Before July 1st, the position, as stated by the courts, was that they should be interpreted according to the principles of private law contracts. From now on, however, agreements will be interpreted according to the principles established in the Labour Code. In the case of doubt or uncertainty, the provisions that are more favourable towards the employee will apply.

The new amendments also strengthen labour arbitration, abolish the 'third court' as a collective dispute settlement body and remove the absolute prohibition of strikes.

Recently, the Lithuanian Labour Code was also amended to reduce administrative burdens on employers. The standard form for employment contracts provided by the government is no longer mandatory but rather only advised although the mandatory provisions of the employment contract must still be included in all contracts. In addition, payslips may now be provided to employees in either written or electronic form and employers may use electronic time sheets.

Norway: New rules on holidays now in force

Changes to the Norwegian Holidays Act came into force on July 1st 2014.

Employees who become ill during their annual leave will now have their annual leave postponed from the very first day — not from the sixth day as was the rule previously. They may then take their holiday at a later date, as agreed with their employer. The option of choosing financial compensation rather than taking a subsequent holiday due to sickness or parental leave has also been repealed. All holiday that is not taken for reasons of sickness will instead be transferred to the next holiday year.

These changes were necessary to make Norway's annual leave legislation consistent with the provisions of the EU Working Time Directive.

Portugal: Draft law to significantly change collective agreement rules

The Portuguese government has approved and submitted to parliament a draft law to amend the Labour Code. Under the draft law, collective agreements would expire in three rather than five years after their conclusion, and in the absence of a new agreement having been made the terms of the expired collective agreement would continue to apply for 12 months, rather than the current 18 months, to allow time for negotiation.

The draft law also introduces the possibility of suspending collective agreements when a company is in crisis. All or part of the agreement may be suspended where market reasons, structural or technological disasters or other events severely affect the normal activities of the company. This action must, however, be essential to ensure that employees' jobs are maintained.

In addition, if the parliament accepts the draft law, the suspension of the rules that allow workers to receive a higher payment for overtime hours would be extended for a further five months.

UK: Exclusivity clauses to be banned in zero-hours contracts

The UK government has announced plans to ban exclusivity clauses in zero-hours contracts. The announcement follows a period of government consultation on the use of zero-hours contracts.

According to the government, 83% of respondents to the consultation were in favour of banning exclusivity clauses, which prevent individuals from working for other employers even when work under the contract is not guaranteed. The ban has been included in the Small Business, Enterprise and Employment Bill, which was introduced to parliament on June 25th 2014.

In addition, the government has stated that it will further consult on how to prevent evasion of the exclusivity ban. It also intends to work with business representatives and unions to develop a code of practice on the fair usage of zero-hours contracts by the end of the year and improve the availability of information on these types of contracts for employees.

Pay, Tax and Benefit Trends

CYPRUS/SPAIN: A double tax agreement between Cyprus and Spain, which was signed on February 14th 2013, has now entered into force. The Cypriot tax authorities have announced that the benefits of the agreement will have retrospective effect from January 1st 2014. For many years, Cyprus-resident companies did not have the right to certain Spanish tax advantages and exemptions because they were included in the Spanish authorities' 'black list' of tax havens. With this agreement, Cyprus ceases to be considered a 'tax haven'.

ITALY: New statistics on contractual wages under collective agreements have been published by Italy's National Institute of Statistics (Istat). The data shows a 0.1% increase in the hourly index of wages in May 2014 as compared with April 2014 and a 1.3% increase in the hourly index as compared with May 2013. The sectors that saw the biggest pay increases in May were telecommunications (3.1%), rubber, plastic and non-metallic mineral processing (3.0%) and mineral extraction (2.9%). At the end of May 2014, 50.02% of employees in the private sector were awaiting renewal of their expired collective agreements.

MONTENEGRO: According to data from the National Statistics Office of Montenegro (Monstat), average gross earnings in Montenegro in May 2014 were 726 euros, while average net earnings were 478 euros. This was a 0.8% increase in net earnings as compared with April 2014, however a 0.4% decrease when compared with net earnings in May 2013.

NETHERLANDS: The statutory national minimum wage in the Netherlands increased on July 1st 2014. The new national minimum wage for full-time workers aged over 23 years is 1,495.20 euros gross per month.

ROMANIA: The Romanian Senate has adopted a draft law that would reduce employers' social security contributions from 20.8% to 15.8%. If this law is endorsed by the Chamber of Deputies in a plenary vote in July, it will come into force on October 1st 2014.

ROMANIA: On July 1st 2014, the national minimum wage for full-time workers in Romania rose from 850 leu (194 euros) per month to 900 leu (205 euros) per month.

SWITZERLAND: The organisation responsible for the project 'dialogue on equal pay' in Switzerland has released a statement on the results achieved by the project. Over the past five years, 51 companies consisting of 230,000 employees took part in the dialogue with the Swiss Confederation and trade union organisations. Although the participation rates hoped for were not achieved, the organisation has reported increased sensitivity to the issue of equal pay among the public and the political world.

UK: The UK Government has opened consultations on four proposed reforms to the taxation of employee benefits and expenses. The government's plans for reformation include abolishing the £8,500 (10,674 euro) threshold for the taxation of benefits in kind, introducing an option for employers to collect tax on benefits in kind and expenses in real time through their payroll, removing employers' reporting duties for 'trivial benefits', and replacing the expenses dispensation system with an exemption for paid or reimbursed expenses. The consultations are open now and will run until September 9th 2014.

Other European HR News in Brief

ALBANIA: EU ministers have finally accepted that Albania should be granted official EU candidate status, based on recommendations by the European Commission and Parliament. Albania is now the sixth candidate along with Turkey, Serbia, Montenegro, Macedonia and Iceland. Albania first applied to join the EU in 2009, but these attempts were blocked by certain EU states. This decision is expected to be ratified by EU heads of state at the European Summit at the end of July.

EUROPE: The European Court of Justice (ECJ) has ruled that a deceased employee's estate should be paid for all unused holiday accrued by the employee up until the date of his death. The ECJ ruled that national legislation or practice which allows accrued and untaken annual leave to be lost upon termination of employment due to the death of the employee was incompatible with European Union law. In giving its decision, the Court noted the importance of the right to annual leave in social law. The Court also confirmed that the right to claim this allowance was not dependent on a prior application by the interested party. [Case C-118/13]

EUROPE: The Danish courts have asked the European Court of Justice (ECJ) to rule on the case of a worker who alleges he was unfairly dismissed for being obese. The ECJ will have to decide whether the employee's obesity falls within the definition of disability under EU law and whether, by dismissing him, the employer discriminated against him on the basis of disability. This is the first time that the ECJ will have considered the issue. The decision will be of particular interest for employers as it may create obligations to make reasonable adjustments in the workplace for obese employees. The decision reached by the Court will be published in a few weeks' time. [Case C-354/13]

EUROPE: The European Commission has launched a European Hospitality Skills Passport. The Skills Passport is intended to facilitate recruitment in the hospitality sector by helping to overcome language barriers. Employees can record all the skills they have obtained during their education, training and work experience in the passport. It then acts as an accompaniment to a CV, allowing employers to compare workers' skills more easily. The skills passport is available in all EU official languages and to employers who sign up to European Job Mobility Portal (EURES). It is likely to be extended to other sectors in the future.

GERMANY: The Federal Labour Court of Germany (BAG) has recently ruled on the issue of annual leave entitlements during periods of unpaid leave. The BAG confirmed that an employee on unpaid leave (in this case sabbatical leave) is entitled to claim not only the statutory minimum holiday allowance but also any additional annual leave agreed in the employment contract. Employers are allowed to reduce the annual leave entitlement only where specifically permitted under statute — for example during parental leave. This does not prevent an employer and employee agreeing to a reduction of the employee's additional contractual annual leave allowance during a period of unpaid leave. [AZR 678/12]

LUXEMBOURG: On June 26th 2014, the government of Luxembourg launched its Youth Guarantee Implementation Plan. Although Luxembourg's youth unemployment rate is among the lowest in Europe (15.5% compared with a 23% average in Europe), it is still relatively high compared with the overall Luxembourgish unemployment rate of 7%. Among the plans, the government intends to offer more training opportunities for specific occupations, specific sectors and specific companies. It will also offer life-long training opportunities for those already in work.

POLAND: The latest data provided by the Polish Ministry of Labour shows that working fathers are increasingly willing to use their parental leave rights. In Poland, in addition to paternity leave, new fathers are entitled to share up to six weeks of maternity leave and 26 weeks of parental leave with their partner. The most attractive option for new fathers appears to be sharing maternity leave: according to the Ministry nearly 40,000 fathers took advantage of this option in the first four months of 2014 — four times more than in the same period of 2013. The number of fathers taking paternity leave also increased six-fold between December 2013 (approximately 2,000) and March 2014 (13,000).

SERBIA: Following some of the most serious floods in the country's history, the government of Serbia has recommended that employers should give paid leave to employees affected by floods and landslides to allow them to repair the damage to their homes. The government has recommended that employers pay up to a maximum of 45 working days — this should be granted at the request of employees with certification from the relevant city or municipal headquarters for emergency situations.

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 membershipservices@fedee.com.
