



FedEE
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Fédération des Employeurs Européens

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Latest News from the Federation of European Employers (FedEE)

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Europe: Corporate disclosure — a new cost burden for employers

The European Commission remains intent on introducing new non-financial disclosure rules for large companies.

A proposed directive adopted this week by the European Commission would require companies with more than 500 employees to disclose information on environmental, social and employee-related matters, plus human rights, anti-corruption and anti-bribery issues. Listed companies would also have to provide information about their diversity policy. Currently, less than 10% of the largest EU companies regularly disclose such information.

Stringent new reporting obligations have already been adopted by the EU for extractive, logging (Forestry) and banking sectors. Companies in the extractive and logging industries will soon have to disclose payments made to governments on a country-by-country basis so that citizens of foreign states can know how much their governments are being paid by multinationals for exploiting oil and gas fields, mineral deposits and forests. From

next year European banks will have to report on the diversity of their boards and how they tackle risks. They will also have to disclose their profits, taxes and subsidies in each EU Member State and non-EU country where they operate.

Europe: Growing threat to EU economy and jobs

Opposition groups are threatening to disrupt traffic through the Suez Canal if a law that would allow the Egyptian government to develop land along the canal is approved. In addition to local opponents who have a history of carrying out violent protests, there are now a number of retired generals against the proposal, who could gain military backing for their cause.

Asia accounts for over 40% of EU trade, and current free trade talks with Japan and Thailand are set to stimulate further growth — creating more than two million EU jobs. However, over 90% of trade in tangible goods between the EU and Asia passes through the Suez Canal, making the 193 km strip the Achilles heel of the European economy.



Europe: Growth prospects improve in most EU countries

The Organisation for Economic Cooperation and Development (OECD) has just published its latest composite leading indicators for the world's most advanced economies. These figures predict economic turning points between three and six months ahead.

There has been a general "gain in growth momentum" across the euro area and growth "close to trend" in the United Kingdom. Overall, recovery is most evident in Finland, Germany, Greece, Ireland, Italy, Portugal, Slovenia and Spain. A downward trend is, however, evident in Estonia, Russia and Sweden. Outside Europe the biggest downward trend is in India, whilst China is managing to stay on trend.

France: New employment law comes into force

The French law on the safeguarding of employment (loi relative à la sécurisation de l'emploi) was enacted on June 14th, implementing the agreement signed on January 11th 2013 by employers' organisations (MEDEF, CGPME and UPA) and three trade unions (CFDT, CFTC and CFE-CGC), but rejected by the FO and CGT.

Under this law changes have been made to the time-limits within which an employee in France may legally challenge their dismissal. In the case of redundancy (licenciement économique), proceedings must be initiated before the employment tribunal within 12 months of receipt of the letter of dismissal. The same time limit will apply for termination by mutual agreement (rupture conventionnelle). In cases of other forms of termination, proceedings must now be initiated before the employment tribunal within two years of the date of termination rather than five although for dismissals made before June 16th 2013 the five year time limit for initiating proceedings will remain applicable until June 2015.

Additionally, if a company is experiencing serious economic difficulties it may now conclude up to a two year agreement, with unions representing more than 50% of employees, to adjust working time and remuneration. Wages may not, however, be reduced below 1.2 times the minimum wage (SMIC). Where an employee refuses to accept the terms of the agreement the termination of employment will be considered a redundancy.

Other provisions will come into force at different times over the next few years. From July 1st 2013 employers' contributions to the unemployment insurance system for short fixed-term contracts will be increased, except in the case of contracts for the performance of a specific temporary task and seasonal jobs. Also from July 1st, the procedure for managing collective redundancies and the content of the employment safeguarding plan (PSE) may be set by a collective agreement or in a policy document made by the employer and approved by the local employment authorities (DIRECCTE). By January 1st 2016 companies will have to provide additional health care to their employees and will be responsible for providing half the funding.

France: Court set to deny employer's right to choose contractual jurisdiction

A case has opened at the criminal court of Aix-en-Provence in France between the low cost airline Ryanair and ten different parties. The company is accused of not registering its business activity with the social security agency URSSAF, not complying with French labour laws and denying its employees both mandatory pension plans and union rights.

The company rightfully claims that it is lawful to employ staff in France on an Irish employment contract (under the Rome Convention) and that no social security payments were due because all staff were only temporarily deployed to work in France. However, the company faces a behind the scenes challenge from its major rival, Air



France, and is therefore unlikely to avoid a 225,000 euro fine and possible confiscation of four France-based aircraft.

Switzerland: Switzerland modifies banking secrecy laws

Agreement has finally been reached between the Swiss government and the US Treasury for data relating to US citizens' Swiss bank accounts to be supplied to the US revenue service (IRS). The amendment exempting such actions from Switzerland's strict bank secrecy laws will enter into force immediately.

This is the most recent development in a long chain of international negotiations to introduce restrictions under the US Foreign Account Tax Compliance Act ("FATCA"). Similar disclosure agreements have so far been reached with Denmark, the Irish Republic, Germany, Mexico, Norway and the United Kingdom. In the pipeline are further agreements with France, Italy, Spain, Japan, Canada, Finland, Guernsey, the Isle of Man, Jersey and the Netherlands.

Switzerland: Government stalls on minimum wage issue

The Swiss Federal government has come under increased pressure from the Travail Suisse trade union umbrella group to introduce a national minimum wage. The government has recently introduced tighter restrictions on salary declarations by foreign contractors and next month all construction companies will become liable for noncompliance with sectoral wage agreements by their subcontractors.

A facility already exists in Switzerland for Cantons to impose standard work contracts, containing minimum wage provisions, in sectors where collective agreements are not in force. However, only three Cantons have so far taken such an initiative — Geneva for cosmetics companies and domestic staff, Ticino for beauty salons, call centres and vehicle maintenance firms and Valais

for construction, maintenance and cleaning services.

UK: Unions no longer dominated by male manual workers

Trade union membership in the UK remained stable in 2012 at 26% of the UK employed population. However, membership in the private sector rose slightly from 14.2% in 2011 to 14.4% in 2012.

The latest report from the UK's Department for Business, Innovation and Skills (BIS) reveals that union membership is highest amongst middle income professionals, older workers and those in the public sector. Female employees are now more likely to be a union member than male employees and, in the private sector, union density is highest in utilities, transport and storage and lowest in scientific and technical services, hospitality and food outlets. Back in 1995 union membership resulted in an average wage premium of 15%, but this has been progressively eroded to the point that by 2012 it stood at just 4%.

Pay, Tax and Benefit Trends

EASTERN EUROPE: There has been an increasing interest in voluntary pension contributions in many eastern European states. In Ukraine there was an influx of 10,000 new policies after the law on voluntary contributions was amended in April, whilst in Hungary the total fund value arising from voluntary contributions rose by 14% over the year to March 2013.

GERMANY: German employers have experienced a sharp rise in labour costs. Over the year to Q1 2013 average wage and salary costs rose by 4.3% — up from 3.9% over year to Q4 2012. However, non-wage labour costs rose by 5.8% during the same period — compared with just 2.2% over the year to Q4 2012.



LATVIA: The indexation of state pensions is likely to resume in Latvia this Autumn. The suspension of indexation was one of the key austerity measures introduced during the recession, but the government felt sufficient progress had been made in the last year to permit increased contributions to second pillar private pension schemes. Latvia's entry to the eurozone in 2014 is giving a renewed confidence in its economy, although many retired people continue to rely on cash payments from relatives abroad.

NETHERLANDS: The Advocate-General of the Dutch Supreme Court has advised the court that the exclusion of certain highly skilled foreign workers from a 30% tax-free allowance is not contrary to EU freedom of movement rules. The rule in question removes the right to tax relief from expatriates hired to work in the Netherlands who have lived within 150 km of a Dutch border for 16 of the last 24 months. A ruling by the Supreme Court is expected to be made within the next two months.

NETHERLANDS: A body advising the Dutch government on tax matters has recommended a number of changes to income tax rates and personal allowances. The Van Dijkhuizen Commission has proposed that there be two rather than three income tax brackets, with incomes up to 62,500 euros a year taxed at 37% and income above that threshold taxed at 49%. They also want rent subsidies, health allowance and child-linked benefits to be combined into one payment with a cut in the number of recipients from 4.5 million to 1.5 million.

NETHERLANDS: Under a proposal currently being considered by the Dutch Cabinet, employees will, in future, be permitted to build up tax-free supplementary pensions at a rate of 1.85% of gross salary instead of the current 2.25% savings rate. This would, nevertheless, maintain their prospective pension rights if they retired much later than at present.

SPAIN: A major Spanish store chain El Corte Inglés has been given three months by the Social Chamber of Audiencia Nacional (High Court) to rectify an equal pay problem affecting 25,000 female employees — a problem which arose because it had not followed its own pay equality plan. A six month deadline has also been set for the company to enforce work wear rules as strictly on male employees as has been hitherto applied to female employees. This ruling comes six years after the same company was found by a Spanish court to have failed to promote women as often as men.

UK: The last round of shareholder meetings will now be taking place before UK listed companies will have to seek binding approval from their shareholders on their board remuneration policy. The new rules, which will apply for financial years commencing this Autumn onwards, also include a requirement for companies to make "available on the company's website" a memorandum setting out particulars on each director's remuneration or compensation for loss of office.

Other European HR news in brief

EUROPE: The latest figures from the EU's statistical agency Eurostat show that in 2012 foreign citizens made up 7% of the EU's workforce. Despite the right of free movement of workers between EU member states, a higher proportion of foreign workers came from non-EU countries than from EU countries. Overall immigrants were more likely to be unemployed than nationals and the differential was highest with non-EU citizens where unemployment rates averaged 21.3% compared to just 9% amongst nationals in 2012.

EUROPE: The governments of Austria, Germany, the Netherlands, Slovenia and the UK have decided to continue limiting access to Croatian workers for at least two years after Croatia joins



the European Union on July 1st. Transitional restrictions are also likely to be imposed by France, Italy, Norway and Spain. However, the governments of Denmark, Estonia, Finland, Ireland and Lithuania have already decided to grant free movement rights with immediate effect. They are likely to be followed by the Czech Republic, Latvia, Poland and Portugal.

GERMANY: The Labour Court in Hesse, Germany has ordered a bank to reinstate a supervisor who was dismissed for not detecting a major input error made by one of their staff. In the court's view the oversight should have resulted in a reprimand rather than termination — even though the error had amounted to an overpayment of 22 million euros. Fortunately for the bank another colleague spotted the error before it was too late.

HUNGARY: Organisations that provide IT services to Hungarian public sector bodies may soon need to reorganise their operations in compliance with the Information Security Act. The Act requires that by July 1st 2014 major administrative authorities and public entities may only "manage information on electronic information systems that are located in the territory of Hungary". Where special permission has been granted by the National Development Ministry, or through an international treaty, the data processing may take place elsewhere in the European Union.

MALTA: A report on "precarious employment" is being drawn up by Malta's General Workers Union for submission to the Malta Council for Economic and Social Development at the end of June. Its principal focus is the security industry where the union is seeking to establish a sectoral agreement. The Council is a government advisory body and is likely to issue recommendations for further legislation in this field.

NORWAY: At just 3.7%, the unemployment rate in Norway remains the lowest in Europe. Surprisingly, labour shortages are not widely evident — although a recent survey of 12,200 companies by the Norwegian Labour and Welfare Service (NAV) has been able to clarify future demands. The survey found that a quarter of employers expect to increase employment levels in the coming year, compared with 11% that expect to reduce employee numbers. Job growth will be highest in the property and service sectors and job losses most likely in wood processing and the graphics industries.

POLAND: Polish nationals may soon be able to travel to USA without a visa. The US Senate Judiciary Committee has added Poland to the Visa Waiver Programme. If this is confirmed by the full Senate then the last hurdle will be the House of Representatives. Although President Obama has stated that "we expect that Poland will benefit from the implementation of the Visa Waiver Program" many US politicians remain concerned about the high number of Poles who have hitherto overstayed beyond their visa deadline.

ROMANIA: A Commission which advises the Romanian government on constitutional matters has approved an amendment to the constitution which adds sexual orientation to the list of forbidden grounds for discrimination. The text now reads "Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, sexual orientation, opinion, political adherence, property or social origin."

RUSSIA: The Russian Parliament (Duma) has passed at second reading a new religious offence law. This measure strengthens existing legislation and criminalises "intentional" and "public" displays that cause "offense to religious sensibilities". The



penalty for any such deliberate act will be one year in prison. The third and final reading is expected later this month and the new law will then come into effect this Autumn.

SLOVAKIA: A draft amendment to the Slovak law on labour inspection aims to increase the fines on employers for illegal employment. It proposes to increase the minimum fine for employing two or more people without a work permit or without declaring employment to the state authorities from 2,000 euros to 5,000 euros. The minimum fine for the lesser offence of not complying with statutory obligations will also rise from 65 euros to 650 euros.

UK: The UK Advisory, Conciliation and Arbitration Service (ACAS) has published a revised code of practice on the use of settlement agreements to accompany the coming into force of S14 of the Enterprise and Regulatory Reform Act 2013 — a provision that will make all communication

between employers and employees concerning a termination deal confidential. Under this provision, employees will not be able use such communications as evidence to make further claims — unless the dismissal was automatically unfair, arose from discrimination or the employer had acted "improperly". The code defines this term and also states that employees must be given up to 10 days to consider any final settlement offer.

UK: The trade union Unison has applied to the High Court for a judicial review of the UK government's decision to introduce employment tribunal (and appeal tribunal) fees for applications received after July 28th 2013. The government has already made it clear in correspondence with the union that the introduction of fees would not be unlawful under EU legislation nor lead to either direct or indirect discrimination. It therefore remains unlikely that this challenge will be successful.

FedEE news:

LAUNCH OF FEDEE FELLOWSHIP PROGRAMME: 2013 marks the 25th anniversary of the Federation's foundation. During this period the organisation has grown to become a key resource for multinational HR and employment law professionals. Yet the HR role, particularly in the post recessionary period, has become far more complex, demanding and uncertain.

We have therefore identified the need to provide those operating at a senior level in FedEE member companies with a regular opportunity to take stock and share ideas and concerns with fellow professionals in a relaxed and attractive setting, far away from workplace pressures. Conventional conferences and formal meetings do not provide a satisfactory environment for this to happen. That is why FedEE is launching its Fellowship Programme. This will initially be based on annual two-day meetings in the UK and France during which all discussions will be "off the record", with no notes taken and no intrusion from commercial sponsors.

For further information about FedEE Fellowship please visit <http://www.fedee.com/about-fedee/events-programme/> today.

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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