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: The causes of workplace stress

A pan-European survey conducted by the European Agency for Safety and Health at Work has revealed that job reorganisation or job insecurity is considered the most common cause of work-place stress, with 72% of respondents selecting this option. Other perceived causes of stress include hours worked or workload (66%), unacceptable behaviours such as bullying or harassment (59%), and lack of support from colleagues or superiors (57%).

Job reorganisation or job insecurity was considered the greatest cause of work-related stress in nearly all European countries except in Austria, Cyprus, Iceland, Lithuania, Malta, Romania and Spain where hours worked or workload ranked highest. These two causes were ranked joint highest in Portugal, Slovenia and Sweden.

Stress was reported to be slightly lower amongst those whose employers operated policies to help employees continue working up to or beyond retirement age. Moreover, a greater number of employees (66%) in workplaces with such policies reported that stress was handled well compared with the average (54%).

### France: Employers must pay severance at end of fixed-term contracts

The French Minister for Justice, Christiane Taubira, has confirmed that there will be no change in the law to allow an employer to waive or reclaim a severance payment made to an employee upon conversion of a fixed-term contract (CDD) to a permanent contract (CDI).

The Labour Code stipulates that an employee is entitled to severance pay upon termination of a CDD, and this has been reinforced by a body of case law which confirms the obligation to pay severance, even when the CDD is replaced by a CDI. It is now clear that this obligation also exists in cases where a judge has ordered an employer to reclassify a CDD as a CDI and make an additional 'reclassification payment'.

## France: Tax credit for competitiveness and employment

The introduction of wage tax credits (IECC/CICE) in France at the beginning of the year has led to some confusion amongst employers — particularly over its pre-financing provisions. Recent official guidance confirms that the credits are based on the total sum of salaries paid by a company to employees earning up to 2.5 times the national minimum wage. The size of the credits will amount to a 4% tax rebate this year and a 6% rebate as of next year.

Companies are required to declare their corporation tax CICE when depositing their pay statement No. 2572 by the 15th of the fourth month following the close of their financial year. The income tax CICE is due when they deposit their annual "tax return" four months after the close of the tax year (i.e.: May 1st).

Companies may claim, by way of an interest free loan, 85% of their expected wage credits by making an online application to OSEO, a subsidiary of the BPI state investment bank (https://formulaires.offre-oseo.fr/demande/cice). A condition of the rebate is, however, that it is not used to inflate company profits or senior executive remuneration.

## France: Will pension reform fix the economy?

As France enters its second recession in the last four years its government continues to struggle with reforms of its ailing pensions system. Unless some urgent steps are taken, state pensions will hit a 20bn euro shortfall by 2020. President François Hollande was helped into office by his opposition to the raising of the normal state retirement age, so the only option available to him is either to raise pension contributions or extend the contribution period.

France has also been criticised recently for its generous public holiday provision and the country's practice of extending bank holidays when they fall mid-week using 'ponts' (bridges) — a practice that is considered to be contributing to France's poor economic performance.

## Germany: Reduced severance payments for older workers

A recent ruling from the German Federal Labour Court (Bundesarbeitsgericht) has confirmed that older employees may be paid a lower amount of severance compensation, provided it is agreed under a social plan. The Court stated that it is lawful for employers and Works Councils negotiating a social plan to take into consideration the fact that an employee will soon be able to draw their state pension, and reduce their severance payment entitlement accordingly.

The case before the court involved a 62 year old employee who received a severance payment of around 5,000 euros, instead of more than 230,000 euros he would have been entitled to under the plan's standard formula for calculating severance pay. The plan also provided, however, that employees over 58 should receive a reduced payment based on the financial loss they would incur up until the earliest date they may receive their statutory pension. The Court ruled that this provision did not represent unjustified age discrimination, nor violate EU law on equal treatment of employees.

German law has always facilitated the paying of lower severance payments to older workers and, indeed, the 2006 law on equal treatment specifically permits it. The European Court of Justice (ECJ)'s view on the matter remains unclear as it has not yet considered an identical case. However, the ECJ would appear to agree that lower severance payments for older workers do not necessarily breach EU law where a terminated employee will immediately, or in the near future, qualify to receive a pension payment [1 AZR 813/11].

## Irish Republic: Registered agreements unconstitutional

The Irish Supreme Court has ruled that registered employment agreements setting minimum pay rates in certain sectors are unconstitutional.

According to the court, the Industrial Relations Act of 1946 — which made provision for the agreements — "raised serious issues of incompatibility with the Constitution". Once concluded, even the Labour Court itself has been powerless to amend the agreements.

Whilst conceding that the judgment affects electrical contracting, the Irish employment minister, Richard Bruton, still contends that not all sectors covered by registered employment agreements are affected by the ruling. The Irish government is currently taking advice about what steps it can take to reintroduce generally applied sectoral accords, although the existence of the national minimum wage has arguably reduced the need for such instruments.

## UK: New powers for shareholders over board members' pay

Following the coming into force of the UK's Enterprise and Regulatory Reform Act (ERRA) 2013, quoted companies now have a short grace period in which to review their remuneration policies. The Act's directors' remuneration provisions will be brought into effect through a statutory instrument which is likely to be published this Autumn.

The Act requires a company's remuneration policy to be formally approved by shareholders at least every three years; it may not be implemented unless so approved. If shareholders refuse to give their support to the company's policy then the previous policy will remain in force. Shareholders will continue to make only advisory votes on how the policy is implemented — although a failure to secure such a vote must be rectified within each three-year period.

## UK: Post-employment victimisation

There continues to be uncertainty as to whether workers in the United Kingdom are protected against victimisation after an employment relationship has ended.

Section 108 of the Equality Act (2010) appears to exclude victimisation from post-employment discrimination, and earlier this year the Employment Appeals Tribunal (EAT) found that such victimisation was not unlawful (Rowstock Ltd and another v Jessemey). However, a more recent EAT panel has concluded that post-employment victimisation is protected (Onu v Akwiwu and another). We will have to wait for a Court of Appeal judgment to discover which view prevails.

## Pay, Tax and Benefit Trends

**ALBANIA:** With effect from May 6th 2013, employees in Albania who earn less than 30,000 ALL (212.59 euros) per month will not be subject to income tax. Previously, tax at a rate of 10% was payable on earnings of between 10,000 and 30,000 ALL. An earlier amendment (Law No 124/2012) has also increased the penalties on employers who fail to declare new employees at least one day prior to their work commencement. The standard fine is now 500,000 ALL (3,546.00 euros) per offence.

**BOSNIA-HERZEGOVINA:** Average gross monthly earnings in Bosnia-Herzegovina fell by 0.4% to 1.272KM (650.36 euros) over the year to February 2013. Average gross earnings were highest in the financial and insurance sectors (2,096 KM) and lowest in construction (815 KM). They were also particularly low in manufacturing (873 KM).

**CROATIA:** Many companies in Croatia are rushing to move to adjacent countries such as Bosnia-Herzegovina before the country joins the

European Union in July. This is because EU entry will remove the country from the Central European Free Trade Agreement and also increase competition from other EU countries. Meat, dairy products and cigars — which Croatia exports principally to other non-EU states — will all become subject to new customs tariffs. Amongst those planning to leave are the major tobacco company Rovinj and the biscuit maker "Krash".

**CZECH REPUBLIC:** Employers in the Czech Republic have been unable to reach agreement with trade unions over an increase in the national minimum wage. The current rate of CZK 8,000 (309.83 euros) gross per month has not been increased since 2007. Social Affairs Minister Ludmila Müllerová is now going to put forwards a proposal to the Cabinet which will probably be for an increase of CZK 500 (19.36 euros) with effect from January 2014.

**EUROPE:** According to a report by the Organisation for Economic Co-operation and Development (OECD), the global financial crisis has caused a significant increase in income inequality. Furthermore, whilst poverty among children and young people increased between 2007 and 2010, it decreased amongst the elderly. The countries with the greatest increase in poverty amongst young people were Turkey, Spain, Belgium, Slovenia and Hungary.

**NETHERLANDS:** The Dutch Central Bank has just published a study which examines how reducing mandatory pension contributions would impact the economy. A reduction amounting to 9 billion euros a year would, according to the bank, boost GDP by 0.6%, increase private consumption by 2.4%, reduce the state's budget deficit by 0.7% and significantly reduce unemployment. However, what the report does not consider is that these benefits would not arise if employees simply put their increased disposable income into savings.

**POLAND**: The business travel regulations applicable to employers with a registered office in Poland have changed. The new minimum compensation for domestic travel is PLN 30 per day (up from PLN 23), whilst allowances for foreign travel is specified on a country by country basis. Furthermore, an employer may now specify the appropriate means of transport and travel class to be used. The regulations also include a list of the other kinds of expenses which may be reimbursed.

**ROMANIA:** The Romanian Minister for Labour, Family and Social Protection, Mariana Câmpeanu, has approved an order increasing the value of meal vouchers from 9 to 9.35 lei (2.08 to 2.16 euros) a day, and the monthly amount that can be paid by employers in the form of childcare vouchers from 400 lei to 420 lei (92.30 to 96.91 euros).

**ROMANIA:** The Romanian government has announced that from July 1st the family support allowance will be increased from 60 lei (13.8 euros) to 80 lei (18.4 euros) for a family with two children. Furthermore, the already declared 8.5% rise in the minimum wage in July will be followed by a further rise of 4.5% on January 1st next year. These increases have been made to compensate for the increase in gas and electricity prices that is expected to follow the liberalisation of the energy industry.

**SERBIA:** Following the failure of Serbia's Social Economic Council to reach agreement on a revised minimum wage, the government has decided to set a new minimum rate without further consultation. This new rate is expected to be announced shortly.

## Other European HR news in brief

**EUROPEAN UNION:** The overall proportion of people in the European Union (EU) undertaking lifelong learning has remained surprisingly constant during the last five years, in spite of the economic downturn. The EU's labour force surveys have found that, on average, around one in ten respondents aged 25-64 had undertaken education and training in the four weeks prior to the survey. However, this proportion grew significantly between 2007 and 2012 in the Czech Republic, Estonia, Luxembourg and Portugal, and remained over 20% in Switzerland and in all Scandinavian countries.

**ITALY:** Italy's new Labour Minister, Enrico Giovannini, has said that he has no plans to undo the labour reforms introduced by Mario Monti's government. However, he would like to make the pension system more flexible by allowing individuals to retire early on a reduced retirement benefit. He also intends to tackle youth unemployment by offering tax breaks to companies offering permanent employment to young people. A comprehensive package on youth unemployment is being developed and is likely to be launched by the end of June.

**NETHERLANDS:** Majority parliamentary support now appears to have been achieved in the Netherlands for local councils to be given the freedom to determine whether shops may open on Sundays and, if so, how often. The strongest opposition has always come from the Christian Democratic Party (CDA), but now CDA politicians are willing to concede — provided shop owners will not be forced to open on a Sunday if they do not wish to do so.

**NETHERLANDS:** There has been a progressive decline in the demand for temporary agency workers across the Netherlands since the beginning of 2012. The biggest change has been in the healthcare sector, where demand has fallen by 20% over the last year. In the industry sector there has been a 6% fall in total hours worked by "temps" since April 2012.

**POLAND:** If approved by the state legislature, amendments to the labour law will extend maternity leave and create a new right to parental leave in Poland — with effect from June 17th 2013. The new law would allow parents to take alternating periods of leave and to combine leave with part-time work whilst receiving their leave benefit on a pro-rata basis.

**POLAND**: The Polish Ministry of Labour and Social Policy has confirmed that the practice of employers requiring blank promissory notes from employees on appointment is unlawful. This supports the position of the Supreme Court which, in 2011, ruled that provision in the Labour Code allowing employers to claim compensation from the employee for damages (equal to the harm caused but not exceeding three months' pay) rendered the use of promissory notes void.

**SLOVENIA:** Two new employment laws have entered into force in Slovenia. The Employment Relationship Act (Zakon o delovnih razmerjih; "ERA-1") and the Act on the Amendments to the Labour Market Regulation Act (Zakon o spremembah in dopolnitvah Zakona o urejanju trga dela; "ZUTD-A") introduce increased restrictions on temporary agency work and fixed-term contracts, simpler procedures for terminations, shorter notice periods and lower severance payments.

**SPAIN:** The Aragon regional government in Spain has declared that Monday, October 13th 2014 will be a one-off public holiday to compensate for the fact that National Day next year falls on a Sunday. It can now be expected that other Spanish regions will also declare a compensatory public holiday — although not necessarily on the same day.

**SPAIN:** The Spanish Institute for National Statistics has reported that 2,661 companies were declared bankrupt in Spain during Q1 2013 — an increase of 30.1% compared with the same period in 2012. The types of company most affected by bankruptcy were in construction (25.0%), commerce (17.1%) and energy (16.3%). However, 74.1% of the companies declared bankrupt had less than 20 employees.

## FedEE news:

**MINIMUM WAGES ACROSS EUROPE**
FedEE's minimum wage table has now been comprehensively updated to take into account changes that were previously 'in the pipeline' or where the announcement of amendments had been delayed. The table is the most popularly viewed page on our website and can be found in our members' area at http://www.fedee.com/fedmembers/kb/questions.php?questionid=1185.

**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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