



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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The French government is seeking to broker unified employment terms and conditions in the national railway system. Since 2006 when private competition was opened up in the rail freight sector two distinct working time arrangements have developed - affecting particularly the state railway operator SNCF rather than Réseau Ferré de France (RFF), which was formed in 1997 and manages all lines.

SNCF employs 150,000 employees, most of whom have traditional employment terms arising from a law concluded in 1940. This gives them generous pension rights and clearly structured career advancement structures. For this reason the transport ministry is seeking to make its far reaching working time reforms through a draft law which it will finalise after extensive consultation.

France: Doubts about future competitiveness

Negotiations between the French employers' federation (Medef) and trade unions on accords relating to competitiveness and the labour market have been progressing slowly.

The next meeting is scheduled for today. The present round of talks follow a reference by the French government wishing to generate an agreed roadmap covering "the fight against insecurity, the identification of danger signals for mass redundancies, ways to maintain employment and the reform of collective redundancy procedures." However, negotiators have been bogged down because of widely different perspectives on job flexibility and the unions' expectations that if the talks fail then the government will step in and impose a legal solution closer to their own current position.

EU: Contrasts in economic structure

Annual results for the recently published EU Labour Force Survey for 2011 reveal strong contrasts in the economic structures of different EU states.

The most agricultural country was Romania with 28.6% of its population employed in such activities compared to an EU average of just 5%. The most industrial country was the Czech Republic (38.4%) and least industrial Luxembourg (13.4%). Overall 39.4% of the EU working population were employed in the private services sector last year



and 30.4% in the public sector - with the public sector being particularly large in Luxembourg (41.7%), Denmark (38.4%) and Belgium (37.1%).

Austria: New anti-bribery measure

A new anti-corruption law comes into force in Austria on January 1st 2013. This will have important implications for employers and increase the necessity to have clear guidelines in place.

The new law allows for the prosecution of an Austrian citizen for corruption in another country - even if the action taken does not constitute a crime in the country where it took place. The maximum punishment for the giving and taking of bribes involving public officials (and others "close to the state") will rise from three to ten years imprisonment. Gifts to public officials will only be allowed if their value amounts to less than 100 euros.

In the private sector, bribery will become the concern of the police and public prosecutor's office if it involves a sum of 50 euros or more (prosecutions currently have to be private). The public prosecutor will take into account company guidelines in addition to statutory regulations. The current limit of six months imprisonment will also be raised to three years in cases where bribery amounts to 50,000 euros or more.

Belgium: Default employment criteria

With effect from January 1st 2013 self-employed persons in Belgium who are working in construction, surveillance and security services, transport of goods or persons, and cleaning services will need to justify their employment status. They will be regarded as being an employee - and not self-employed - if they meet any five of the following nine criteria. They have:

1. To bear no financial or economic risks associated with their activities.
2. No responsibility or decision-making power regarding the financial resources of the contractor.

3. No power to make decisions on the purchasing policy of the contractor.
4. No power to make decisions about prices charged by the contractor (except where prices are legally determined).
5. No obligation to achieve a specific result from the agreed work.
6. The benefit of a guaranteed fixed fee, regardless of the financial results or the scope of work performed.
7. No freedom as an employer of hired personnel and do not have the scope to hire staff to replace themselves.
8. No function to act as a corporate entity towards third parties, or they mainly or usually work for one contractual party.
9. Duties which involve them in operating on premises which are neither owned nor rented by them, or with equipment provided, funded or guaranteed by the contractor.

Belgium: Employers free to monitor web postings

The Labour court of Leuven, Belgium has held that an employee's right to privacy was not violated when his employer obtained information from his public Facebook profile.

The employee argued that his rights under the Belgian Data Protection Act and Article 8 of the European Convention on Human Rights had been infringed. The court found, however, that this was not the case and that if an employee makes use of a social network and identifies himself on the network as a member of a company's personnel, the employee must refrain from making statements which could be construed as either disloyal or detrimental for the company.

European Union: Health and safety leadership counts

A new report published by the European Agency for Safety and Health at Work has found that leadership and management factors have the



most impact on whether occupational safety and health (OSH) measures succeed or fail.

A close analysis of 16 case studies revealed that not only did well managed OSH activities reduce accidents, but they also helped to reduce sick leave and improve productivity. Examples of OSH leadership were the allocation of responsibility for one aspect of OSH to each board member; senior managers undertaking regular safety tours around the workplace and engaging with employees and combining OSH measures with a rebranding of the company itself, to transform its image in the marketplace.

Leadership and Occupational Safety and Health: An Expert Analysis. EASHW. 2012. ISBN: 978-92-9191-836-2.

Pay, Tax and Benefit Trends

FRANCE: The French automaker Renault has warned its French trade unions that it will base its future production plans on pay and working time concessions. The company is seeking to align French wage and production costs with its plant in Palencia, Spain, and Japanese affiliate Nissan's Sunderland factory in England. PSA Peugeot Citroen, Europe's second-biggest automaker, has also announced plans to cut its French payroll by 8,000, cease production at a major assembly plant near Paris and severely cut back production at another plant.

GERMANY: Back in June the German trade union IG Metall agreed to a request from the loss-making carmaker GM-Opel to defer until the end of October a 4.3% pay rise due under its current agreement. It has now been agreed to pay the deferred increase as lump sum, although no agreement has been made on the future base salaries payable to the company's German personnel. GM-Opel has made further cutbacks this year with the loss of 1,000 temporary workers and a decision to remove one of its shifts at its

Eisenach plant and introduce a two-shift system. It has also suspended plans for future production at its Bochum plant.

GLOBAL: Électricité de France Group (EDF) has signed its first collective agreement covering employees outside France. The company's Asia-Pacific Division has just signed a deal covering 92% of its employees in China. This provides for index linked wage increases, housing benefits, 27 days annual leave and a supplementary occupational pension. By far the majority of the 4,000+ multinational enterprises with a major presence in China have now entered into collective agreements and the latest companies to enter into negotiations for the first time are Bosch and Mitsubishi, although large companies such as Carrefour are yet to show their hand.

NETHERLANDS: The new Dutch coalition Cabinet has reached an accord on the means testing of health premiums. Under their proposals those on high incomes (70,000+ euros pa) would pay monthly premiums of around 500 euros compared with 120-50 euros for those on middle incomes and 20 euros for those who are unemployed. The impact of the reform on those with higher incomes is likely to give it a difficult and uncertain passage through the Dutch Senate (Staten-Generaal).

UNITED KINGDOM: A landmark decision by the UK Supreme Court has supported a previous judgment by the Court of Appeal in Birmingham City Council (Appellant) v Abdulla and others (Respondents). This has accepted the principle that, in certain circumstances, workers who failed to bring an equal pay case before an employment tribunal within the six months allotted for submissions may still take their case through the civil court system where the statute of limitations is six years.

UNITED KINGDOM: An amendment to the UK Enterprise and Regulatory Reform Bill has been



made to give employment tribunals the power to order employers to carry out pay audits if they have been found to have infringed gender discrimination provisions in respect to contractual or non-contractual pay (such as discretionary bonuses). Employers may challenge this ruling where they have carried out such an audit in the last three years, it is clear what action is necessary to avoid future equal pay breaches, the breach is clearly an isolated incident or where the disadvantages of an audit would outweigh its benefits.

Other European HR news in brief

AUSTRIA: Transfers of personal data in Austria between different entities in a group have until now been subject to general data processing limitations. A new regulation has recently come into force allowing employee data to be transmitted between companies in the same group for the purpose of adding to a personnel database and the administration of bonus and stock options. Moreover the transfer of data for such purposes to group companies outside the European Union no longer requires prior approval by the Austrian Data Protection Authority.

CZECH REPUBLIC: There has not hitherto been any legal framework for the conduct of mediation in the Czech Republic. However, an Act has recently come into force which meets the state's obligations under the EU Mediation Directive (2008/52 EC) and places onto a statutory footing the services of registered mediators. The Ministry of State has established an examination system for mediators - who must have a University education and clean criminal record. Once mediation is initiated, litigation will be suspended and strict confidentiality rules observed. Registered mediators will also have the power to issue a document lawfully resolving all points at issue.

EUROPEAN UNION: The latest figures for government debt have been published by the EU statistical agency Eurostat. These show that over the year to Q2 2012 EU governments collective debt as a percentage of GDP rose from an average of 87.1% to 90.0%. In Q2 2012 debt stood at 150.3% in Greece, 126.1% in Italy and 117.5% in Portugal. The countries with the lowest government debt burdens were Estonia (7.3%), Bulgaria (16.5%) and Luxembourg (20.9%). Amongst the largest national economies in the EU the debt burdens were 91.0% in France, 86.0% in the UK, 82.8% in Germany, 76.0% in Spain and 57% in Poland.

FRANCE: A citizenship test due to be introduced in France by July 1st 2012 has been finally abandoned by the current Interior Minister Manuel Valls. The test was the brainchild of his predecessor Claude Guéant. A requirement will still remain for candidates to speak the French language, understand the values of the Republic, sign a citizenship charter and meet prior residency criteria - but there will be no requirement for applicants for French citizenship to be in permanent employment.

FRANCE: Employers of parents with young children in France should note that from next year primary schools will operate on a 4.5 day rather than 4 day week. The current practice of giving children a day off school on Wednesdays will end in most areas. However, local education authorities may still choose to add a half day on Saturday instead of on Wednesday.

HUNGARY: At the end of October the Hungarian government submitted a draft permanent residency law to the national parliament. This proposes that individuals could gain Hungarian full residency status under "preferential conditions" if they (or their company) bought 250,000+ euros worth of government bonds maturing in at least five years. The qualifying individual would not, for instance, need to apply for the permit in person or



have achieved at least three years continuous physical residence in Hungary.

ITALY: A new anti-corruption law has come into force in Italy. It increases penalties for public officials taking bribes and also all forms of corruption in the private sector. Whistleblowers are guaranteed anonymity and local councils are required to establish an annual anti-corruption plan. The Court of accounts has estimated that corruption amounts to 60 bn euros a year in Italy.

NETHERLANDS: The Dutch trade union De Unie has decided to leave the MHP union federation. MHP is the third largest union federation in the Netherlands and De Unie accounts for almost half its members. The split has arisen from disagreements over the MHP voting structure and its support for the accord allowing the state pension (AOW) age to be raised to 67 - a change opposed by De Unie.

NORWAY: The Norwegian Embassy in Colombo, Sri Lanka has stopped issuing work permits to Sri Lankan nationals. Moreover, Schengen travel

visas to Norway, Denmark, Iceland, Sweden and Finland can now only be obtained via one agent in Colombo - VFS Sri Lanka located in the World Trade Center.

SPAIN: The Spanish government has confirmed that Romanian nationals will no longer require a work permit in order to work in Spain from January 1st 2013. Romanians holding work permits that expire on or after January 1st will not be required to renew them.

SPAIN: The International Airlines Group that owns both British Airways and Iberia is planning to make 4,500 redundancies next year in order to stem losses in its Spanish operations - arising in part from labour disputes at its low-cost carrier Iberia Express. The group has set a January 31st deadline to reach an agreement with trade unions over the job cuts, without which it said there could be more dismissals.

FedEE news:

EMPLOYMENT LAW PROGRAMME: Fully revised audio-visual law programme presentations are now available on the FedEE members' website. These cover France, Germany, Italy, the Netherlands, Poland, Russia (new), Spain and the United Kingdom. We shall also shortly be posting an online presentation for Sweden and further presentations covering other national jurisdictions are planned for 2013 – including some key countries outside Europe.

INTERVIEW WITH PROFESSOR BREWSTER: An interview with Professor Brewster of the Henley School of Management is now available to view on the FedEE website. The video deals with the problems of harmonising HR policies in the face of differing legal and cultural constraints. <http://www.fedee.com/fedee-media/>

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](#).

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