



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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Falling sales in Europe are forcing many multinational companies to cut costs and pull out of unprofitable national marketplaces.

Europe accounts for about 20% to 25% of sales for US multinationals and the appreciation of the \$US against the euro coupled with tax hikes arising from government austerity programmes are reducing overall demand levels and increasing the intensity of competition - with little immediate prospect of regaining lost revenues. According to Bloomberg, there have been 47 announcements of redundancy programmes affecting over 1,000 workers so far this year in western Europe - compared to 32 over the same period last year.

Europe: Greece violated social charter

The Social Rights Committee of the Council of Europe has issued a judgment declaring invalid two changes to Greek labour law that took place in 2010 because they violated workers' rights as set out in the Council's European Social Charter. The offending measures were an extension to one year of the "trial period" during which employees may be dismissed without notice (Article 3 of the

Additional Protocol of 1988) and the reduction of the minimum wage for those under 25 (Article 4 - right to a fair remuneration).

Further decisions on social rights restrictions arising from the economic crisis in Greece are due to be taken by the committee covering Articles 1 (right to work), 7 (the right of children and young persons to protection), 10 (right to vocational training), and 12 (right to social security).

Although such judgments are non-binding, the Council's Committee of Ministers may issue a recommendation to a state that takes no action on a Social Rights Committee decision, asking it to amend its law(s) or practice(s). Committee rulings may also be cited in a domestic court in support of a legal challenge to a law, procedure or practice.

EU: More than 1000 EWCs now in operation

According to the ETUI EWC database, 1015 European Works Councils (EWC) are currently in operation.

They are most commonly formed in companies headquartered in Germany, the USA or the UK



and the most prevalent sector is engineering/metal manufacture. 53% of EWCs cover ten or more countries, 23% include representatives from countries joining the EU in 2004, but only 5% operations in Bulgaria and/or Romania and 3% operations in EU applicant countries.

The Swedish kitchen specialist Nobia is the latest company to renew its EWC agreement. The agreement was first concluded in 1997.

Eurozone: Sharp turnaround in trade balance

The 17 eurozone countries have achieved a major improvement in their 'trade in goods' balance with the rest of the world this year. Over the year to August 2012 the trade surplus was 46.9 bn euros, compared with a deficit of -226.8 bn euros over the same period last year.

The largest surplus was observed in Germany (+109.1 bn), followed by the Netherlands (+29.1 bn) and Ireland (+24.8 bn). However the largest deficits were in France (-48.9 bn) and Spain (-20.5 bn). The UK - which is outside the eurozone - produced a deficit of -85.1 bn euros.

Thanks largely to the performance of the German economy, the EU27 trade deficit fell with China (-80.5 bn compared with -87.3 bn), Russia (-52.0 bn compared with -59.3 bn) and Japan (-6.2 bn compared with -12.9 bn) and the trade surplus increased with the USA (+49.0 bn compared with +41.0 bn).

France: Transfer of employees by mutual consent

The scope for parties to an employment contract in France to by-pass the dismissal procedure by common agreement (*rupture conventionnelle homologuée* or RCH) introduced in 2008 remains uncertain following a Court of Appeal ruling in Riom (June 12th 2012).

The court found that the RCH must be employed in all cases of dismissal by mutual agreement - except in those circumstances where the law specifically excludes its use. However, the procedure requires the payment of termination indemnities and ratification by the labour administration. For this reason employers transferring employees between sister companies or consortia partners have previously relied on the method of termination by mutual agreement that existed before 2008. This avenue would now appear to be closed and it will take a further appeal to the Supreme Court to clarify the position. As yet, no such appeal has been made in this case.

Germany: Labour shortages threaten growth

Germany's Federal Employment Agency has reported that in September unfilled job vacancies reached 485,000 and that the labour shortage was seriously threatening the continued growth of the German economy. The shortfall was largely for specialists in electronics, mechanical engineering, automotive, logistics, trade and the health sector.

The average time-to-fill each vacancy was 78 days and the longest recruitment periods were in Hamburg and Baden-Württemberg. Because those emigrating from EU states in eastern Europe have been principally heading for the UK, the agency is promoting German job opportunities to qualified candidates in Spain, Portugal, the Balkan States, Indonesia and Vietnam.

Russian Federation: Latest legislative developments

A law banning temporary agency work will be considered by Russia's State Duma (parliament) this autumn. Although the measure was passed at a first reading last May it is unlikely to succeed in its present form.



A draft law on the protection of teleworkers and defining their authority to authorise documents electronically is also in progress through the legislature.

There is still no government response to a Supreme Court ruling in April which called into question primary health and safety legislation. The court found that where a workplace is subject to hazardous conditions an employer must limit the workweek to 36 hours, add seven further days to paid annual leave and provide a hazards allowance amounting to at least 4% of basic remuneration.

Sweden: Global agreement breaks new ground

Securitas AB has reached a ground-breaking global agreement with the Swedish Transport Workers' Union. This guarantees the rights of unions to run organising campaigns, provides for the company to "facilitate" union recruitment activity and streamlines union recognition "as long as the union satisfies the minimum legal requirements for recognition". Moreover, any unresolved disputes will be resolved through mediation "by joint agreement, a request for which will not be unreasonably denied by either party".

The parties have undertaken to ensure all employees receive a "living wage" (as defined by OECD guidelines) and work together to improve employment standards. The deal also includes a commitment to the "Ruggie Principles" contained in the United Nations "Protect, Respect and Remedy Framework". These oblige the company to take active steps to identify and eradicate human rights infringements that may arise in any of its global operations.

Turkey: Rapid growth of working population

The working-age population (WAP) in Turkey rose by 1.124 million over the year to July 2012. 71.9%

of the male WAP is now economically active compared to 30.3% of the female WAP. However, the labour force participation rate of those with higher education is 83.4% for men and 68.8% for women.

A major problem in Turkey is the high proportion of employees who work without any state social security cover, particularly in the agricultural sector. The proportion in non-agricultural employees without such cover declined over the year to July 2012 from 28.3% to 24.7%.

Pay, Tax and Benefit Trends

AUSTRIA: The Austrian Engineering Employers' Federation (FMMI) has agreed to raise pay levels by 3.3%-3.4% on November 1st for 120,000 specialist metal workers. Pay determination in the engineering sector is organised through six separate collective agreements. The latest deal raises non-manual employees' average annual salaries to 56,000 euros per year, whilst manual employees will earn on average 36,400 euros per year.

CROATIA: Croatia's Finance Minister, Slavko Linic, has announced that his ministry plans to cut employer mandatory healthcare contributions by 2016 from 13% of employee salaries to 7%. Earlier this year the new incoming government of Prime Minister Zoran Milanovic trimmed contributions from 15% to 13% in order to help boost economic competitiveness ahead of EU entry next year.

CYPRUS: Employers' organisations in Cyprus have submitted a proposal to the national government that the current COLA wage indexation system should be suspended for the next three years. They have further proposed that when it is reintroduced it should be based on a wide range of economic performance indicators over the past year, rather than price movements the previous two quarters. The labour ministry has



so far accepted that COLA should be applied once a year, rather than every six months and also that zero growth or any negative movement in GDP should freeze CLA adjustments for the following year.

EU: Following extensive consultations, the European Commission is working on a revised Pension Fund Directive (IORP) and expects to issue a first draft by the summer of 2013. The European Insurance and Occupational Pensions Authority (EIOPA) has just begun a quantitative impact study on a new "holistic balance sheet tool" which could be an essential element in the revised Directive. However, widespread concerns have been expressed about the approaches currently being taken by the Commission and EIOPA, especially the wish to align pensions to insurance industry frameworks and introduce further solvency protection rules.

FRANCE: The French national Assembly has now voted through the first part of the 2013 finance bill. This includes the new 75% marginal tax rate on annual incomes in excess of one million euros and a further marginal tax rate of 45% on incomes in excess of 150,000 euros a year. The government has conceded to pressures principally from small businesses to retain the 19% flat capital gains tax on the proceeds of a business sale - but has funded the concession by extending the 5% tax surcharge on large companies until the end of 2014.

SERBIA: State Secretary for Employment and Social Policy, Brankica Jankovic has revealed that 86,000 of Serbia's 7.2m population receive social assistance. The monthly social assistance benefit ranges from RSD 6,774 (59.84 euros) for single households to RSD 21,500 (189.94 euros) for a family with four children. This remains wholly inadequate and consequently the Labour Ministry operates 72 soup kitchens - mainly in the south and east of the country - serving 32,000 people. It

also distributes regular food parcels to 42,000 households.

UK: Barclays, one of the UK's leading banking groups, has decided to drop its product based incentive bonus plans in favour of a purely service-based approach. The budgets for incentives will remain unchanged and the new incentive payments will be geared far more to the performance of teams and geographical areas. Bonuses will also be paid quarterly rather than annually from the second half of 2013.

UK: An analysis of recent UK pay deals by Incomes Data Services has found that collectively agreed pay rises averaged 2.5%, with employers predicting similar increases next year. The survey found few pay freezes, although the number of rises in excess of 3% has been declining.

Other European HR news in brief

ALBANIA: A proposed amendment to the Albanian Labour Code currently before the national parliament would give women returning from maternity leave a right to claim reduced working hours and/or to take two hours off during their normal work period. The changes would also introduce a reversal of the burden of proof in discrimination cases and widened the definition of harassment to include "any form of behaviourhaving the purpose or leading to the impairment of personal dignity, especially if it creates a threatening, hostile, humiliating, contemptuous or offensive environment."

EUROPE: The European Trade Union Congress has called for "a day of action and solidarity" on November 14th 2012. This will involve widespread strikes, rallies and demonstrations across the European Union in opposition to the austerity measures and the "dismantling of the European social model". Other notable future strike activity will be at Milan airport on November 19th, courthouses in Greece until November 9th and



24-48 hour stoppages in all sectors of the Greek economy throughout the month.

EUROPE: The World Economic Forum has just published its global gender gap report for 2012. Europe continues to dominate the top 10 in the forum's league table, with Iceland at number 1, followed by Finland, Norway, Sweden and Ireland. Denmark is ranked 7th and Switzerland 10th, however Greece is ranked at 82 and Turkey ranked 124th.

FINLAND: The Finnish health and safety authority is pressing the government to give it increased inspection powers. Problems at the nuclear construction site in Olkiluoto have reinforced their case, with inspectors not being given immediate access to contractors and subcontractors where violations of statutory obligations were suspected. The authority would therefore wish to have entry powers equivalent to those held by the police.

GERMANY: The Regional Labour Court of Berlin and Brandenburg, Germany, has recently ruled in a case in which a dismissal was held to be invalid because an employee used cannabis during their leisure time. The court held that activities outside work are not relevant to an employment relationship unless they impact on their ability to carry out their duties. The court did add, however, that drug abuse outside work might be taken into account if the job role includes certain roles such as public transport or IT security.

GERMANY: A German court has fined an employer who refused to employ a veiled Muslim employee because she refused to remove her headscarf. The court found that the employer had breached the Equal Treatment Act (ETA) as wearing the headscarf was not optional, but a required expression of religious belief. However, the fine for damages only amounted to 1500 euros.

GLOBAL: A recent KPMG report on "Rethinking Human Resources in a Changing World" has suggested that the relentless focus of corporate concerns on cost reduction in recent years has made HR practitioners lose sight of how they can "build value into the wider business". A global study conducted by the Economist Intelligence Unit on behalf of KPMG has thrown up a number of key challenges in the field of talent acquisition and management, employee engagement, the better use of technology and the exploitation of rich data sources to gain predictive insights.

ITALY: The Italian government has been referred to the European Court of Justice by the European Commission for not requiring companies to include senior managers (*dirigenti*) as a category of workers when consulting about collective redundancies (Law No 223/1991 implementing EU Directive 98/59/EC).

SPAIN: A Spanish court has recently found that a collective redundancy was null and void because it involved informal negotiations with individuals. The employer concerned had conducted the correct consultation procedures with employee representatives, but had organised separate meetings with affected employees outside the framework of the formal consultation process. The court regarded the individual meetings as "fraudulent conduct" because they were not transparent and did not involve the employee representatives.

UK: Companies operating in the UK and employing immigrants from outside the European Economic Area (and Switzerland) should ensure that the sponsor licence issued to them by the UK Border Agency is renewed on time. The licences were first issued in November 2008 and remained valid for four years. If a company fails to renew its licence immigrants covered by it will lose the right to work in the UK.



FedEE news:

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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