



**FedEE**  
Federation of European Employers  
Fédération des Employeurs Européens

# Mettre à jour

## Latest News from the Federation of European Employers (FedEE)

### Inside this Issue:

**European Union:** Seasonal Workers Directive

**Poland:** Special solutions for the protection of jobs

**Netherlands:** Strict procedures for demotion

**Italy:** Dismissal for misuse of work time and equipment upheld

**UK:** New "defined ambition" pension scheme

**Belgium:** Measures to support youth employment

**Spain:** Simplification of employment contracts

**European Union:** Calculation of minimum wage rates for posted workers

### Belgium: Measures to support youth employment

A draft Royal Decree on the support of youth employment has been approved by the Council of Ministers in Belgium. Under this law, collective bargaining agreements will have to include provision for an employer contribution of 0.10% of gross salaries for the purpose of supporting groups at risk. Companies not subject to collective bargaining agreements will have to make this 0.10% contribution through Social Security.

Another of Belgium's measures to support youth employment is the ACTIVA programme. Through this scheme, low-skilled young people below the age of 27 who have been unemployed for at least 12 months can benefit from an allowance of 500 euros, upon employment, in addition to their salary, for a period of up to three years. The employer of the young person also receives a 500 euro reduction in contributions.

From January 1st 2014 the ACTIVA programme will be extended to all young people under the age of 30 who have been unemployed for a minimum period of six months.

### Europe: Bad work organisation can hit employee health

A report into quality of life during the recession years 2007 to 2012 has revealed that "subjective well-being" fell significantly in Greece, Spain and Italy. According to the Organisation for Economic Cooperation and Development (OECD) confidence in government fell, and 50% of people who faced poor work organisation and workplace relationships reported that their job impaired their health, compared with only 15% among those experiencing favourable conditions.

The data also shows that the gender gap in favour of men has narrowed, but has not disappeared. Girls perform better than boys at school — but in the workplace career opportunities remain biased in favour of male employees. The report shows that, as the recession bit, personal and informal networks strengthened, and families have been an increasingly important source of support.



## European Union: Calculation of minimum wage rates for posted workers

Following a request for a preliminary ruling from Germany, the Court of Justice of the European Union (CJEU) has confirmed that, when calculating the minimum rates of pay for a posted worker, other elements of remuneration may be included in the calculation.

The German Federal Labour Court (BAG) questioned whether lump sum payments and capital formation contributions could be included in calculations to determine whether the minimum wage had been paid, as per Directive 96/71/EC.

The CJEU noted that the Directive does not prescribe minimum wage rates for posted workers and maintained that this is left to the discretion of the member states. However, it stated that when determining whether other elements of remuneration were to be included, a distinction must be drawn between whether the payment (e.g. wage or lump sum) was made in reflection of the worker's existing duties under the employment relationship or whether it indicated a change (e.g. it was in respect of extra work done). Where it does not affect the relationship between the work completed and the remuneration the worker receives, the additional elements are not necessarily excluded by the Directive. The CJEU referred the case back to the BAG to assess the nature of the payments in the present case.

## European Union: Seasonal Workers Directive

National governments have shown support for a draft law, agreed between the European Parliament and Council Presidency, which aims to improve living and working conditions for non-EU seasonal workers.

The Seasonal Workers Directive is intended to ensure that non-EU seasonal workers are

provided with the same minimum pay rates as EU nationals, as well as the same protection with regards to working hours, holidays and dismissals. It does not impact upon the number of seasonal workers each member state allows, although they will be required to fix maximum stay lengths for seasonal work permits. Sanctions, which may include compensation payments or the removal of entitlement to employ non-EU seasonal workers, will be imposed on employers who breach the provisions.

A plenary vote on the law will take place in January 2014.

## Italy: Dismissal for misuse of work time and equipment upheld

The Supreme Court of Italy has ruled that it was legitimate for a worker to be dismissed for playing games on the office computer during working hours.

According to the facts of the case, the time spent using the office computer for playing games amounted to between 260 and 300 hours over a period of more than a year. The Court held that this behaviour caused the company economic damage as well as damage to the company image.

The decision reversed the judgment of the Court of Appeal of Rome which had nullified the dismissal and ordered the company to reinstate the employee or pay damages equal to six months' salary. [Decision no. 25069 of November 7th, 2013]

## Netherlands: Strict procedures for demotion

A recent Court of Appeal decision in the Netherlands has highlighted the importance of strictly following the correct procedure when assessing performance and making demotions.



The case involved an employee who, following a number of appraisals between 2007 and 2012, was moved down a function level due to poor performance. Although the employer gave the employee the opportunity to improve, no specific details as regards how to improve or the time-scale for making improvements were provided. Furthermore, although specific points of improvement were stated in the appraisals, these were not reflected in the overall conclusion which always rated performance as "good" or "very good".

The Court decided that the employee had not been sufficiently warned about the possibility of demotion and should have had the opportunity to follow an improvement plan.

According to the Court, the test provided for in *Stoof/Mammoet* [ECLI:NL:HR:2008:BD1847] should be used when assessing the fairness of demotion. The question to be asked is the same as that used for dismissal: was the employee performing poorly and had they been given the opportunity to improve?  
[ECLI:NL:GHSHE:2013:4424]

## **Poland: Special solutions for the protection of jobs**

Today, November 21st 2013, the Act on special solutions for the protection of jobs comes into force in Poland, replacing the anti-crisis law of July 1st 2009.

The Act allows employers to introduce "economic stoppage" or reduce employee working time up to half the normal working time, upon the conclusion of an agreement with trade unions or employee representatives.

Employers may apply for financial aid to support them in introducing such measures, by filing an application with the relevant Voivodeship marshal for the area. Aid will be available to help

employers remunerate employees during periods of economic stoppage and reduced working time (employees are entitled to at least the minimum wage during such times) and pay social security contributions due.

In order to be eligible for aid, employers must have recorded at least a 15% decline in turnover over six consecutive months during the preceding twelve months.

Employers may also apply for funding for the training of employees during economic stoppage or reduced working time.

Such agreements may be concluded until June 30th 2014.

## **UK: New "defined ambition" pension scheme**

The UK government has proposed a new type of pension scheme known as a "defined ambition" pension scheme. These are designed to be cheaper for employers to run than defined benefit plans while offering employees more certainty than is offered by defined contribution plans.

The government has also discussed possible changes to rules surrounding defined benefit plans. For example, removing statutory requirements for employers to raise pensions in line with inflation would help to make these schemes cheaper to run and therefore allow more companies to continue offering them.

## **Pay, Tax and Benefit Trends**

**CZECH REPUBLIC:** Agreement has been reached between the Czech coal mining company OKD and its trade union negotiators on a 5-year wage agreement. The company is the biggest employer in the northern Moravskoslezsky region where unemployment remains high. Miners



currently earn a gross average monthly wage of Kc 35,323 (1,300 euros) — almost twice the national average. The company had originally been seeking cuts in social benefits and 13th/14th month payments, but the final deal maintains earnings close to their present level and allows for increases if economic conditions improve.

**ICELAND:** Iceland's Budget proposal 2014, presented in October, provides for a reduction in employer contributions. The combined percentage of employers' payroll tax and wage guarantee fund contributions will decline by 0.1% in 2014 and a further 0.1% in 2015 and 0.14% in 2016. However, the government will also be increasing bank tax from 0.041% to 0.145% and expanding it to be levied on legal entities in winding-up proceedings.

**IRISH REPUBLIC:** Further to the Irish Republic's Budget 2014, maternity and adoptive benefits are due to be standardised at a rate of 230 euros per week for new claimants as from January 6th 2014. For some this will represent an increase in benefit of up to 12.20 euros but for others it will mark a decrease of up to 32 euros per week.

**IRISH REPUBLIC:** The sickness benefit waiting period in the Republic of Ireland is due to increase by three days from January 6th 2014. As a result, employees absent from work due to illness will not be paid for the first six days of absence.

**NETHERLANDS:** A third draft of the Bill amending the Tax Plan 2014 has been published in the Netherlands. It provides for a 3,500 euro reduction in employer social security contributions following recruitment — during the period from January 1st 2014 to January 1st 2016 — of a young person aged 18 to 27 who was previously receiving unemployment benefits. The employment contract must be concluded for a minimum period of six months and for a working time of at least 32 hours a week. The social

security reduction may be applied for a maximum of two years.

**NETHERLANDS:** The Dutch government has announced the national minimum wage for 2014. From January 1st 2014 the monthly minimum wage for adults over the age of 23 will be 1,485.65 euros.

**NORWAY:** Under its tax programme for 2014, the government of Norway is proposing a number of changes to business taxation. Changes include a reduction of corporate tax for mainland businesses to 27%, as well as an extension of the Skattefunn R&D tax incentive scheme through an increase in the internal R&D cap from NOK 5.5 million to NOK 8 million (approximately 669,000 euros to 973,000 euros).

**SLOVAK REPUBLIC:** Since November 1st 2013, employers in Slovakia are able to benefit from social security contribution relief when they employ long-term unemployed individuals. Under the amendment to the Social Security Act, employers who hire someone who has been registered at the employment office for more than a year will only have to pay social security contributions amounting to 1.05% of gross salary for the first 12 months of employment instead of the normal 35.2%. In order to qualify for this benefit the employer must not have made a dismissal in order to hire someone under this scheme. The relief applies also to part-time contracts of employment.

**UK:** The UK's Revenue and Customs service (HMRC) is cracking down on businesses employing unpaid interns. As part of its campaign against such practices the HMRC is carrying out "targeted checks". Companies found not to be paying at least the national minimum wage for long-term interns could face fines of £5,000.



## Other European HR News in Brief

**AUSTRIA:** The latest collective agreements in Austria are now available at <http://www.kollektivvertrag.at/>. This new website, created in September with support from the Ministry of Employment, publishes all current collective agreements, as well as the latest news and information surrounding them.

**BULGARIA:** The government of Bulgaria has announced its bridge holidays for 2014 which will extend the weekend when a public holiday falls on a Tuesday or a Thursday. In 2014 these bridge days will be Friday May 2nd, Monday May 5th and Wednesday December 31st. To compensate for these additional holidays, Saturday May 10th, Saturday May 31st and Saturday December 13th will be working days. In 2013, Monday December 23rd is a bridge holiday and Saturday December 21st is a compensatory working day.

**EUROPE:** The European Commission's statistical agency, Eurostat, has published a new set of data which seeks to highlight problems in national economies. The data reveals that the most successful countries in recent years have been the Irish Republic (real exchange rates and unit labour costs), the Netherlands and Luxembourg (international investments and current account balances), and Latvia (share of world exports). International investments as a proportion of GDP have been generally down, but have collapsed in Portugal, Ireland, Spain and Hungary.

**EUROPEAN UNION:** It is becoming increasingly easy for wealthy individuals to purchase citizenship of an EU member state. Malta is the most recent country to announce such a facility — with instant citizenship on offer for 650,000 euros. This is less expensive than obtaining citizenship in Cyprus — which is now available for three million euros. However, Spain and Portugal are both currently considering the granting of residency permits upon the purchase of property above a

specified value, and the Austrian immigration law has long contained a clause allowing citizenship to be granted to anyone who has made or is expected to make an "extraordinary achievement in the interests of the Republic".

**NETHERLANDS:** The Paris-based Organisation for Economic Cooperation and Development (OECD) has revised its forecasts for the Dutch economy and now predicts that GDP will contract slightly next year rather than growing by 0.7%. Although the Dutch government is taking steps to cut its budget deficit, the International Monetary Fund believes that the deficit will actually grow again in the near future. Unemployment is also predicted by the OECD to rise from 6.7% of the workforce in 2013 to 7.8% in 2014 and 8.1% in 2015.

**NETHERLANDS:** The Upper House of the Dutch parliament has voted in favour of a Bill that would make it more difficult for employers to hire staff from outside the European Economic Area (EEA). From January 1st 2014, non-EEA workers will only be granted work permits for one year, and the duration of employment required in order to gain the right to work without a permit is being raised from three to five years. Employers will be required to pay market rates for foreign workers, and if it is found that a sector is failing to fill posts from EEA candidates, the social affairs minister will have the power to impose a freeze on all non-EEA hiring in that sector.

**SLOVAK REPUBLIC:** The President of Slovakia, Ivan Gašparovič, has used his powers of veto to oppose an amendment to the Collective Bargaining Act. The amendment, which was previously passed by parliament, proposes that companies with at least 20 employees should be bound by higher-level collective agreements. The President thinks they should not apply to companies with fewer than 50 employees — in line with the European Directive on Working Time's definition of a small business.





**SPAIN:** As from January 1st 2014, the number of different types of employment contracts that employers and employees in Spain may enter into will be significantly reduced from 41 down to just a handful. The debate is still ongoing as to whether the number of contracts to remain will be five or as little as three or four. In any case, the overhaul will significantly simplify the system of employment by reducing the number of different systems of pay, different entitlements to redundancy pay, different legal requirements and terms and conditions.

**UK:** The UK government has commissioned an inquiry into trade union tactics following a dispute at the Grangemouth refinery in Scotland. According to claims the Unite union used intimidation tactics against Ineos company executives and their families during the dispute. The enquiry will look at the inherent industrial relations difficulties affecting different industries and the impact of disputes on the national economy. It will make its recommendations in a report due to be published in six months time.

## FedEE News:

**EXPANDED COUNTRY SECTION FOR MOLDOVA:** We have significantly expanded the information provided under the country section for Moldova in our Knowledgebase. This section now includes information on employment contracts, leave, termination, tax and social security and more.

**NEWS BY COUNTRY:** The news pertinent to each European country is now available in our knowledgebase under the relevant country section. See the sub-section entitled 'Recent news'.

**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](mailto:membershipservices@fedee.com).

**POVERTY RELIEF PROGRAMME:** Like many rapidly developing economies, China suffers from a huge wealth gap and in many areas more than a quarter of the population cannot adequately feed or clothe themselves and their families. Multinational companies have made huge investments in China, yet amongst the new high rise office blocks co-exists wide-scale homelessness. Many children are also lacking medical and social care - even when they face terminal conditions such as brain tumours and Leukaemia. FedEE is launching a programme to tackle these problems in one badly affected city – Changsha in Hunan province. Please support this initiative in any way you can – through your own time helping to organize relief or by donations to the programme so that we can secure food, clothing and establish a night shelter for disabled street beggars. Call Robin Chater on (UK) 0770 2300054.

---

Copyright: FedEE Services Ltd 2013

Fédération des Employeurs Européens/The Federation of European Employers (FedEE) is the organisation for international employers operating across Europe. The Federation was founded in 1989 with financial assistance from the European Commission. Our UK postal address is Adam House, 7-10 Adam Street, The



**FedEE**  
Federation of European Employers  
Fédération des Employeurs Européens

# Mettre à jour

Strand, London, WC2N 6AA, UK. Tel: (0044) (0)207 520 9264. Web:<http://www.fedee.com>. We utilise virus scan software, but are not responsible for any problems that may arise from the transmission, receipt or use of any material.

In providing the information contained in this communication neither FedEE nor any third party authors are rendering any legal, accounting or other professional advice or opinions on specific facts or matters. Before taking any course of action, you are strongly recommended to seek appropriate professional advice. Where this communication is part of an information society service it shall be subject to our standard terms and conditions.

The information transmitted is confidential and intended strictly for the corporate/individual addressee. If you receive this communication in error please notify us as soon as possible and delete it. This message constitutes a commercial communication under Section 7(a) of the Electronic Commerce (EC Directive) Regulations 2002. FedEE's UK Data Protection Notification Number is Z546304X.

The Privacy and Electronic Communications (EC Directive) Regulations 2003: This communication has not been transmitted for direct marketing purposes. However, if you do not wish the address used in this communication to be used again by us for any reason, please inform us by email.