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FedEE
Federation of European Employers
Fédération des Employeurs Européens

Mettre à jour

Latest News from the Federation of European Employers (FedEE)

Inside this Issue:

Finland: Negotiators reach final pay deal

A national pay deal has been agreed in principle between the Confederation of Finnish Industries and major trade unions - although the construction industry union has decided not to participate and the metalworkers' union has yet to decide.

The exact details of the agreement have not been finalised, but the 25-month deal that has been tabled currently consists of an initial 2.4% increase to cover the first 13-month period, followed by a further 1.9% for the remaining period. A separate lump sum payment of 150 euros at the beginning of 2012 is also likely. All increases will come into effect in stages as and when the various unions' current agreements run out.

France: Court suspends whistleblowing programme

The Labour Chamber of the Appeal Court in the French city of Caen has upheld a decision to suspend a whistleblower programme implemented by a US company's French affiliate. This was despite the fact that the French Data Protection Authority (CNIL) had inspected and approved the programme.

The Court suspended the programme on the grounds that the company's employee representative groups (Works council and Hygiene and Safety Committee) had not been consulted prior to the final version of the programme being put in place.

The Court also found that the French version of the company code did not clearly define the scope of permitted whistleblowing - as required under French law - because it allowed behaviour and ethics issues to be included. It also encouraged anonymous reporting and failed to inform French employees of their rights to access and delete unjustified reports.

Irish Republic: Compulsory retirement at 55 not discriminatory

The Irish Equality Tribunal has recently ruled on the issue of discrimination and compulsory retirement.

In the case in question, the claimant's contract of employment provided that he retire at 55 years of age. However, he maintained that forcing him to retire at this age amounted to age discrimination and was not objectively justified.

The Equality Officer had held that the employer could rely on section 34(4) of the Employment Equality Act which permits compulsory retirement ages - providing that they are objectively and reasonably justified by a legitimate aim and that the means of achieving that aim are appropriate and necessary. The jobholder was a winchman and it was maintained by the tribunal that early retirement could be justified on health and safety grounds. The protection of those requiring rescue was considered a legitimate aim and therefore compulsory retirement was an appropriate means for achieving it (Saunders v CHC Ireland Ltd DEC-E2011-142).

Malta: No support for new mandatory pension scheme

The Maltese social partners have rejected the findings of a pensions working group set up by the government.

The group recommended the creation of an additional mandatory scheme to complement the present 'pay as you go' pension - which is widely

agreed to be unsustainable. Unions argue that workers would struggle to pay additional pension contributions, whereas employers are concerned that the costs of an additional system would undermine their international competitiveness.

The unsustainability of the current system is attributed to Malta's relatively low employment rate (56% of the population compared to the EU average of 64.2%), as well as its ageing population.

Netherlands: Boost for older workers

The Dutch Social Affairs Minister, Henk Kamp, has tabled a draft Bill designed to make it easier to work beyond the age of 65.

Under the Bill employers will be allowed to extend temporary employment contracts for older workers beyond the current limit of two renewals. The over 65s will not be entitled to sick pay and employers will not have to take special steps to reintegrate them after sick leave. From 2013 employees will also be able to postpone their state pension for up to five years and receive a pension bonus of 6.5% for each year that they exceed the normal retirement age.

Netherlands: Tighter restrictions on expatriate tax perk

Proposed restrictions on the tax treatment of expatriates now appear set to be passed by the Lower House of the Dutch parliament. This is in spite of strong opposition from several local councils and an undertaking by the finance ministry to reconsider current plans.

At present expatriates in the Netherlands are not required to pay income tax amounting to more than 30% of their total gross income. However, under a new parliamentary Bill this facility will only apply to those earning at least 70,000 euros a year. A new qualifying zone would also be introduced such that anyone originating from a location less than 150 km from the Dutch border would no longer qualify as an expatriate for tax purposes.

Romania: Temporary worker directive wrongly transposed

The Romanian government has incorporated the EU Directive on temporary agency work into domestic law. However, the Directive has been incorrectly transposed into the Labour Code.

Under EU rules, the implementation of a Directive may not be a pretext for diminishing employee rights. Even so, the government has taken this opportunity to remove the right of temporary workers to receive remuneration in line with permanent employees - unless it is established through a collective agreement. Instead, such workers now only have the basic right to receive

the national minimum wage.

The other main provisions applicable to agency workers, hirers and temporary work agencies set out in the amendments are:

* Agencies must now be licenced by the ministry of labour,
* A hirer may only engage agency workers for certain temporary tasks and these may not exceed 24 months in duration - although this period this may be extended to 36 months in certain circumstances,
* Agency workers are entitled to all services and facilities offered by the hirer to its permanent employees,
* All relevant policies, internal regulations and collective bargaining agreements applicable to permanent workers of the hirer must also apply to agency workers.

It is likely that the incorrect transposition of remuneration rights will be challenged by the European Commission. We therefore advise employers to act with caution when they are offered temporary workers at reduced agency rates.

Pay, Tax and Benefit Trends

BULGARIA: Bulgaria's Ministry of Social Policy and Labour has proposed that the annual bonus given to people's pensions for continuing to work beyond the normal retirement age should be raised from 3% to 4%. This follows a rejection by parliament last week of an increase from a 3% to a 5% bonus per year.

CZECH REPUBLIC*:* The Czech Senate has rejected the government's draft pension legislation, including the bill enabling employees to transfer part of their pension insurance to private funds. However, the draft legislation will now return to the Chamber of Deputies where the government has a comfortable majority. The Chamber will then probably override the upper house's veto.

FINLAND: Finland's Association of IT Sector Employees is leaving the Federation of Special Service and Clerical Employees (ERTO) to join the Finnish Union of Professional Engineers (UIL), with the aim of strengthening its bargaining power. This has sparked a debate between unions as ERTO is set to lose a third of its members.

GERMANY: An agreement has been reached between the aircraft manufacturer Airbus and Germany's IG Metall trade union. The deal guarantees 16,500 jobs in Germany in return for substantial productivity increases. The company has also undertaken to limit the proportion of temporary workers at each of its four sites in Germany to 20% during 2012-2015 and 15% between 2015 and 2020.

GREECE: The future of Greek sectoral labour agreements is now in doubt following the passing of recent reforms. In future, sectoral collective labour agreements will no longer be mandatory except where owners of businesses (or their representatives) are themselves members of the labour unions with which the collective agreement is signed. Furthermore, an agreement may not be extended beyond the year when it was signed, or include any other businesses (unless their owners or representatives are also members of the union).

LATVIA: The Latvian government has secured agreement from the social partners for the freezing of the national minimum wage at its present level next year.

NETHERLANDS: The Dutch Christian democratic party (CDA) has called upon the Social Affairs Minister Henk Kamp to give more scope to small-medium sized companies wishing to diverge from sectoral pay accords. According to the CDA, the current rules for derogating from a collective

labour agreement that has been declared as generally binding are far too restrictive.

NETHERLANDS: The Dutch central bank has given pension funds an additional year to bring their coverage ratios (CR) back to 105% before they are forced to either raise premiums or cut payouts to beneficiaries. However, funds that were given more time in 2009 to bring their CRs back on target will not be able to take advantage of this further grace period. The civil service fund dropped to a CR of 90% in Q3 2011, the Dutch healthcare sector fund has fallen to 91% whilst Industrial funds PME and PMT have plummeted to 86% and 84.3% respectively.

POLAND: According to the Polish Central Statistical Office real pay levels have been rising quite rapidly in recent years. During the period September 2005-September 2010, the price of goods and services rose by 19.3% compared with a 43.4% rise in average earnings.

SLOVAK REPUBLIC: Slovakia's cabinet has approved a 3.2% increase in the country's minimum wage. This sets the new rate at 327.20 euros a month, effective from January 1st 2012.

UNITED KINGDOM / EUROPE: Both UK and European companies are moving towards outsourcing the administration of their occupational pension schemes - according to new research from Mercer and Chatham Partners. The closure of defined benefit schemes, access to better technology, escalating costs and regulatory changes are the principle reasons driving the trend in the UK. The figures show that just under half of those asked were planning to outsource in the next three years.

Other European HR news in brief

AUSTRIA: The Austrian Ministry of Labour, Social Affairs and Consumer Protection has recently imposed a new limit on the working time of employees in the retail sector. Subject to limited exceptions and an averaging of relevant periods of working time, employers will be subject to a fine if they allow employees to work beyond 1pm for two consecutive Saturdays. The revised hours will be monitored and enforced by the Labour Inspection Authority.

ESTONIA: The Estonian government has pledged to implement an occupational accident and illness insurance scheme by 2014, despite continuing opposition from employers. The number of occupational accidents and illnesses in Estonia is relatively high and the creation of such a scheme has been debated for a number of years.

EUROPEAN UNION: More than one third of European Union countries currently apply restrictions to the free movement of Bulgarian and Romanian workers. These have until the end of this year to apply to the European Commission for an extension of these controls. So far only the Netherlands and the UK have announced they intend to maintain work permit requirements - whilst Austria, Belgium, France, Germany, Ireland, Italy, Luxembourg and Malta have yet to declare their hand. In August the European Commission approved Spain's request to limit free movement for Romanian workers until 31 December 2012. This was due to "serious disturbances in its labour market".

GERMANY: Although Norway, Spain and France have each passed laws obliging publicly listed firms to give a percentage of boardroom seats to women, there is no such law yet in place within Germany. In order to avoid legal quotas Germany's 30 DAX corporations have recently adopted a voluntary code of practice setting a target of 35% board level representation by 2020 - a substantial rise from the 3.7% female representation today.

IRISH REPUBLIC: The Irish Health and Safety Authority (HSA) has recently published guidance

on intoxicants in the workplace. There is no legal obligation for employers to test employees for intoxicants, although they do have a duty to ensure the health and safety of employees (as far as reasonably practicable). Moreover, employees do not have to submit to drug and alcohol testing unless it is provided for in their contract of employment. However, they are under an obligation to carry out their duties and to co-operate when their employer seeks to comply with health and safety legislation.

ITALY: The Italian Supreme Court has recently clarified the liabilities facing an employer should one of its employees cause damage to the assets of the company to which they are seconded. According to the Court, any damage caused will be the responsibility of the seconding employer and must be remedied at that company's expense. The court based its judgement on Section 2049 of the Italian Civil Code - which regulates the liability of a company for the damage caused by its employees. It reasoned that a secondment does not interrupt the link between the organisational interests of the company and the performance of those interests by any of its employees - wherever they are posted.

NETHERLANDS: New figures from the Dutch Central Bureau for Statistics show that around 74% of union members in the Netherlands are over 45 years-old and only 4% are younger than 25. In addition, the number of union members over 65 years of age rose by 6.8% during the past year.

SPAIN: During the first half of 2011, Spain's Interconfederal Mediation and Arbitration Service (SIMA) has resolved 145 disputes involving more than 700,000 workers. The most common points of dispute were the interpretation of collective agreements and discrepancies within pay structures. The growing need for intervention by SIMA has led the employment ministry to announce that it is examining new ways to encourage both sides of industry to resolve differences through the improvement of negotiating procedures.

SWEDEN: The Swedish government is becoming increasingly concerned about the misuse of migration laws by Swedish subsidiaries of foreign companies. This is primarily due to the creation of bogus contracts by recruitment agencies that appear to meet Swedish employment standards. In a recent instance, a Finnish recruitment company secured temporary work permits for 200 Bangladeshi migrants who arrived at Stockholm Arlanda Airport, but then travelled immediately on to another EU country - taking advantage of Schengen open border provisions.

FedEE News:

INVITATION TO FEDEE FILM PREMIERE:

We invite you to be our guest for the Premiere of FedEE's new film "Without Prejudice" at 3.00 pm on Monday, November 7th 2011. The venue will be the BMA's film theatre, 1 Tavistock Square, London WC1H 9JP, UK.

Please watch the film trailer now at http://www.fedee.com/trailer.php

This moving production explores the sometimes coded signals and subtle ways that convey discriminatory treatment in the workplace - whilst leaving open the possibility that the person who perceives themselves the victim of discrimination may have misread the signals, or been oversensitive. It also demonstrates how someone does not have to intend to discriminate in order to have acted in a discriminatory way.

The Premiere will be followed by a discussion, chaired by FedEE's Secretary-General Robin Chater, examining the issues raised by the film. We will then break for light refreshments when there will be an opportunity to meet the film's leading Actress, Director, Producer and its sponsors from ACAS, the TUC, The University of Lincoln and the diversity consultancy Consilium Vyas.

Please let us know as soon as possible if you would like a complimentary ticket - as places are strictly limited. Simply email admin@fedee.com or telephone 0207 520 9264 and ask for Claire or June.

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