

EU Employment Law Practice

European Employment Report

June 2009

EU Developments

Centre-right triumphs in European Parliament elections

Between 4 and 7 June, the citizens of the 27 EU Member States took to the polling stations to determine the composition of the European Parliament for the next 5 years. A total of 736 Members of the European Parliament ("MEPs") were voted in to represent over 500 million Europeans.

The European Parliament co-legislates on an equal basis with the Council, on the basis of legislative proposals from the European Commissions, in three quarters of the EU's areas of activity, and in other areas it has a consultative role.

Some major changes occurred as a result of the recent elections. 50% of the MEPs elected are completely new. There was also a shift in power towards the right, such that a left-leaning majority is no longer possible.

The centre-right European Peoples Party (EPP) took 277 of the 736 seats, making them the most influential party of the new Parliament. Joseph Daul (France) will remain their party leader. The other major group, the Party of European Socialists (PES) had a disappointing result, finishing with over 100 less seats than the EPP and 40 less seats than they took 5 years ago.

The PES remains, by quite a margin, the second largest party in the Parliament, but crucially they are unable to form a majority, without forming a coalition with the EPP. They are still led by Martin Schulz (Germany), in charge since the last elections in 2004.

The Eurosceptics were successful but remain small in comparison with the other parties. Their influence will mainly affect the countries where they were particularly successful (i.e. the UK and the Netherlands).

The Alliance of Liberals and Democrats (ALDE) led by Graham Watson (UK), and the Green parties, co-led by Daniel Cohn-Bendit (France) and Rebecca Harms (Germany), increased their numbers, but remain too small to play a major role in the decision-making process, save to boost numbers in coalitions.

Since no single party has a majority, coalitions must be formed with other parties in order to secure amendments to proposed legislation. In the European Parliament, in order to impose a view on the Council of Ministers, a majority of at least 369 votes is needed.

Since the left-wing parties, even if they vote together, fall short of that number, their influence will be minimal. The PES can achieve a majority if it unites with the EPP but this is not likely to happen often given the limited number of issues on which they share an opinion.

The dominance of the centre-right in the EP will likely shape legislation to be adopted in the area of employment law. Not only will they have the numbers to introduce amendments to legislation, but the Commission would also have in mind the political make-up of the Parliament when deciding whether to table a new proposal, such as for example a new revision of the Working Time Directive or a revision of the Posted Workers Directive.

As the largest political party, the EPP will be entitled to the best jobs within the Parliament such as President of the House, and Chair of some important committees. The largest delegation within the party comes from Angela Merkel's CDU-CSU, with 42 MEPs. However with strong delegations from Italy and France, and despite the loss of the British Conservatives to the Eurosceptics, their political dominance within the Parliament will be clear to see until the next elections in 5 years time.



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Swedish Presidency priorities for 2009

Under the motto "Taking on the Challenges", Sweden assumes the rotating Presidency of the EU Council on 1 July as Europe faces economic recession and an uncertain institutional future. The Presidency's priority in the area of employment and social affairs will be to combat the negative impact of the current global economic crisis on growth and employment, and create long-term solutions for sustainable growth, employment and open markets.

The Presidency will discuss how to prevent those who become unemployed from ending up in long-term exclusion and the importance of trying to find ways back into work for those who, even before the crisis, had a reduced work capacity because of ill health. The Presidency will emphasise the importance of an active labour market policy combined with an active social security policy. The discussion will contribute to the work on the EU's new strategy for growth and jobs which will replace the Lisbon Strategy.

The first (informal) meeting of the Council of Employment Ministers under the Swedish Presidency takes place from 8-9 July in Jönköping and will discuss in principle labour market inclusion. Other upcoming Presidency events include:

- High level conference on Labour market inclusion (October)
- High-level conference on the significance of gender equality for economic growth and employment (October)
- Equality Summit (November)

Meanwhile, on 22 June in Madrid, the Spanish Foreign Ministry announced that the presidential "troika" of Spain, Belgium and Hungary has already drawn up a road map for when they take up the Presidency as from 2010. Their priorities are "sustainable economic growth and the creation of jobs through investment in research and development".

The approval of the new social agenda 2011-2015 will be another priority, particularly to combat poverty and social

exclusion and to apply a gender equality plan.

Link to [Swedish Presidency work programme](#)

EU Labour law

New EWC and Blue Card Directives published in Official Journal

On 6 and 25 May respectively, Council Directives 2009/38/EC on the "establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees" and 2009/50/EC on the "conditions of entry and residence of third-country nationals for the purposes of highly qualified employment" ("Blue Card") were published in the Official Journal.

These Directives now have to be transposed into national law in the 27 Member States within the given timeframe.

Link to [Official Journal - European Works Council](#) and [Official Journal - "Blue Card"](#)

Social Partners sign deal to boost parental leave

On 18 June the social partners, in the presence of Vladimir Spidla, EU Commissioner for Employment, Social Affairs and Equal Opportunities, signed an agreement increasing parental leave from three to four months for each parent. According to the agreement, parental leave should apply "to all workers, men and women, who have an employment contract or employment relationship as defined by the law" regardless of their type of contract (fixed term, part-time, temporary work etc). At the end of the parental leave, workers shall have the right to return to the same job, or if that is not possible, to an equivalent of similar job consistent with their employment contract or employment relationship.

Finally, the new agreement increases protection not just against dismissal but also against unfavourable treatment as a result of exercising their right to parental leave. On the basis of this agreement the Commission will propose legislation

"before the summer". The directive will then have to be adopted by the Council by a qualified majority, and then transposed into national law.

Link to [Commission statement and Framework Agreement](#) and [ETUC Statement](#)

Jobs and Growth

ILO adopts "Global Jobs Pact"

On 3-19 June, the International Labour Organisation (ILO) held its annual meeting, focussing on how to address the global jobs crisis. The conference also held a Roundtable of events on the role of enterprise, employment policies, social protection, labour rights, social dialogue, development cooperation and regional cooperation.

On 19 June, the ILO adopted a "Global Jobs Pact" designed to guide national and international policies aimed at stimulating economic recovery, generating jobs and providing protection to working people and their families. The Global Jobs Pact calls on Governments, organisations protecting workers and employers to work together to collectively tackle the jobs crisis through policies in line with the ILO's Decent Work Agenda. The pact urges Governments to consider options such as special employment programmes, broadening social protection and minimum wages. The Global Jobs Pact amounts arguably to the most urgent and wide-ranging response to an economic crisis ever adopted by the ILO, which marks its 90th anniversary this year.

Link to [ILO jobs pact](#) and [Commission statement on new initiative](#)

National Developments

France – action to stem the looming jobs crisis

In June, the French National Assembly (national parliament) adopted at first reading the text of a private member's "job creation" bill. This measure seeks to reduce current restrictions on the loan of labour between companies, to permit part-time workers to extend weekly working hours on a temporary basis, to

reduce the maximum period during which employees are entitled to training on full pay, to establish an automatic tax credit for small companies that employ young workers and to encourage the introduction of tele-working.

Link to [Jobs Creation Bill](#) (in French)

UK – Temporary agency workers directive: new proposals

In June, the UK's Association of Recruitment Consultancies (ARC) published a proposal to revise the 12-week qualifying period for equal treatment of temporary agency workers agreed by the TUC and the CBI. The ARC, which was formed in March 2009 to represent recruitment firms' interests, disagrees with the 12-week qualifying period for all temporary agency workers and is calling for a two-tier system. ARC's proposal is for a longer derogation period of 12 months for so-called "non-vulnerable" workers who earn one-and-a-half times the national minimum wage. The result would be a split qualifying period of 12 weeks for "vulnerables" and 12 months for "non-vulnerables". ARC reports that its proposal has the support of the Institute of Directors representing some 50,000 directors and the Federation of Small Businesses representing 250,000 businesses. ARC has approached the Department for Business, Innovation and Skills (BIS), which is currently consulting on legislation to implement the Directive, and argued that the TUC/CBI agreement should be revised.

However, it would appear that the Recruitment and Employment Confederation, the principal recruitment representative body, is not in favour of ARC's proposal, which it believes is "unworkable". It therefore remains to be seen whether any amendments to the 12-week qualifying period will feature in the Government's legislative proposals following the consultation.

Link to [ARC Press release](#)

The Weeks Ahead

Council

8-9 July – Informal Employment and Social Security Ministers (EPSCO) meeting (Jönköping)

European Parliament

13-16 July – Plenary (Strasbourg)

2 September 2009 – EMPL Committee meeting

29-30 September – EMPL Committee meeting

Due to the limited EU legislative and judicial activity over the summer recess, the next Employment Report will be sent at the end of August, covering developments in July and August.

EUROPEAN EMPLOYMENT REPORT is a White & Case LLP Newsletter produced by the Brussels Employment Team. Due to the general nature of its content, this report is not and should not be regarded as legal advice. For further information please contact:

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