



EU Employment Practice Group

April 2010

EU Developments

Working Time: Commission pressed to protect work-free Sundays

A third of Members of the European Parliament (MEPs) have signed an appeal urging the European Commission to include work-free Sundays into the upcoming review of the EU Working Time Directive. A previous attempt to specifically refer to Sunday was defeated by the European Court of Justice in 1996, which found insufficient links to the health and safety of workers, which is the main objective of the Directive.

The suggestion has not however been met with enthusiasm by the Commission. The Commissioner for Employment and Social Affairs, László Andor, speaking at a conference organised by the European Parliament's centre-right group in support of work-free Sundays, told MEPs that "currently it is up to Member States to define Sunday as their weekly resting day, and in doing so, by taking into consideration cultural, ethnic and religious diversity". He went on to highlight that many argue against Sundays being regulated by the EU, deploying the principle of "subsidiarity" requiring that decisions be taken at the closest government level to the citizen as appropriate.

Link to [Press release](#)

EP and Council disagree on equal treatment for self-employed workers

Differences still persist between the European Parliament and the Council regarding the proposal to amend Directive 86/613 on equal treatment of self-employed men and women. The Parliament must, in principle, approve its position at second reading on 18 May 2010, while the Committee on Women's Rights (FEMM) must approve the text in its 3-4 May meeting.

The dossier on the table calls for more binding rules including compulsory participation in social security schemes, broadening the notion of "spouses" by granting life partners the same level of social protection and granting self-employed spouses the right to maternity leave.

However, social protection and maternity leave are sensitive issues for Member States. The Council's common position adopted in March 2010 revealed differences regarding the registration of assisting spouses and participation in social security schemes.

Whilst the Commission and the European Parliament take the view that assisting spouses should enjoy the same level of social protection as self-employed workers themselves, the Council's position is restricted to guaranteeing their access to "social protection". Further, that it should be Member States that determine whether the system should be voluntary or compulsory.

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This newsletter briefly describes EU employment developments.

Due to the general nature of its content, this newsletter is not and should be regarded as legal advice.

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Another difficult area is maternity protection, especially the appropriate level of maternity pay. The Council took the view that, given their status as self-employed workers, female self-employed workers (and by analogy female assisting spouses or life partners of self-employed workers) should not be entitled to the same period of maternity leave as provided for in Directive 92/85/EEC. It felt that it would be more appropriate to provide that female self-employed workers (and female spouses and life partners), should, in accordance with national law, be granted an adequate maternity allowance enabling interruptions in their occupational activity owing to pregnancy or motherhood for at least 14 weeks. In contrast, Astrid Lulling (Parliament Rapporteur) continues to base herself on the Directive 92/85/EEC in force for employed workers.

On 7 April, Lulling presented her recommendations to the FEMM Committee. She has resolved to follow the Council's position as far as possible, but acknowledged that *"there was no margin for manoeuvre on certain points"*.

Link to [Lulling amendments](#)

ECJ Developments

Belgium referred to European Court over temporary work agencies

On 18 March, the European Commission announced its intention to bring legal action against Belgium before the European Court of Justice (ECJ) over its rules on temporary employment agencies. Belgium imposes a number of requirements on temporary agencies established in other Member States that wish to provide services in Belgium. In particular, their scope is limited to activities related to human resources and they have to take on a specific legal form. In the Commission's view, these requirements are disproportionate and limit competition in this field, and are likely to disadvantage employers and Belgian workers who use the services of these companies.

Link to [Commission press release](#)

Jobs in the Economic Crisis

G20 holds first ever meeting of employment ministers

On 21-22 April in Washington, the G20 held its first ever meeting of employment ministers. Up until now, G20 meetings have always grouped either heads of state or finance ministers. The urgency behind this historic meeting has been driven by the impact of the current unprecedented economic and financial crisis.

The final statement issued at the close of the two-day meeting declared that *"we want to ensure that productivity gains are shared with workers as rising living standards, that work is a reliable path out of*

poverty for all our people; that fundamental rights of workers are respected and that social dialogue is fostered."

The ministers offered five sets of policy recommendations to be considered:

- Accelerate job creation to ensure a sustained recovery and future growth;
- Strengthen social protection systems and promote inclusive active labour market policies;
- Place employment and poverty alleviation at the centre of national and global economic strategies;
- Improve the quality of jobs for our people;
- Prepare our workforces for future challenges and opportunities.

European Commissioner for Employment, László Andor, although unable to attend in person, gave a video presentation, supporting the creation of a Global Skills Strategy (currently being developed in conjunction with the International Labour Office) and called upon industrial powers to maintain pre-recession job plans. According to EU sources, Andor was able to make a favourable impression because Europe's ability to withstand the crisis has so far been better than expected.

However, John Monks, head of the European Trade Union Confederation (ETUC) expressed some concern in a recent press interview, and believes a lack of EU unity has been a problem at G20 meetings in the past and that similar problems could emerge at this forum *"it's never fully clear if this area is an EU or Member State competence"* he said and added that Andor's success would be judged by his ability to persuade Member States to speak with one voice, which has proven extremely difficult in the past.

Link to [G20 employment ministers website](#)

ILO presents report on employment and social protection policies at G20

During the G20 on 21-22 April, the International Labour Office (ILO) presented its report on "Employment and Social Protection policies from crisis to recovery and beyond: a review of experience". In the report, the ILO tries to answer the question, which employment and social protection policies yield good results and in which context.

The report reviews 13 different policies, the details of which are examined, with examples of countries having applied them, an indication of likely coverage, and analysis of the rationale of the policies in relation to the crisis and recovery. The policies are grouped into three

parts: social protection, employment and training and labour demand. 54 countries in total were surveyed.

Link to [ILO Report](#)

Social Dialogue

UK adopts new Regulations on European Works Councils

On 6 April, the UK published new regulations updating the Transnational Information and Consultation of Employees Regulations 1999, in light of the 2009 recast European Works Council ("EWC") Directive (2009/38/EC).

The EWC Directive requires that "Community-scale" undertakings or group of undertakings, whose workforce within the EEA exceeds prescribed thresholds must establish an EWC or a procedure for the purpose of informing and consulting employees about transnational issues. The Directive contains general requirements, and leaves the detailed rules to national law implementing the Directive. The new UK Regulations will be of interest not only to companies whose central management is located in the UK, which intend to establish an EWC, but also to those whose central management is located outside the EU and able to choose in which Member State to locate their representative for the purpose of setting up an EWC.

The majority of the Regulations will come into force on 5 June 2011, although those relating to the implementation of the Agency Workers Directive will not take effect until 1 October 2011. The Government has also produced guidance as to how the new rules on EWCs will work. The new regulations do not represent any radical overhaul; rather they provide for some small, but potentially significant changes for instance a new definition of what constitutes a 'transnational issue' on which an EWC should be consulted.

Link to [New regulations](#)

Commission publishes study assessing feasibility of setting up sector councils in employment and skills

On 25 March, the European Commission published the results of a study that assessed the feasibility of setting up sector councils on employment and skills at the European levels. Five sectors were studied in depth: construction, textiles and clothing, ICT, horeca and the hospital sector.

Sector councils are platforms at sector level where stakeholders (e.g. social partners) seek to gain insight into likely developments in employment and skill needs, with the aim of assisting policy-making.

The study draws up seven general recommendations:

- Proceed with promoting EU level Sector Councils for Employment and Skills.
- Set realistic objectives and expectations.
- Any EU initiative to promote such Councils should ensure commitment from stakeholders by making participation voluntary and support temporarily, and depending on achievements agreed upon in advance.
- Make EU support dependent of a few stringent conditions and agreement on targets at the application stage and participation in monitoring and evaluation measures.
- Promote co-operation with existing EU initiatives, notably in the fields of labour market trends and education & training.
- Put initial focus on information exchange and on social partners, consider a multi-stage involvement of the corresponding stakeholders.
- Establish a Transversal Council with a limited number of objectives.

The next step will be to launch the initiative in a limited number of sectors, evaluate their functioning in the second year and to decide on continued support based on this evaluation.

Link to [Reports](#)

European social partners tackle bogus self-employment in construction sector

The European social partners in the construction sector have issued a joint text to help tackle the prevalence of bogus self-employment in the sector – a problem which puts workers at risk as well as resulting in unfair competition in the market. They recommend actions such as establishing common European criteria on guidelines for determining the nature of workers' employment status, and suggest creating a social security identity card that shows their employment status.

Link to [Joint Conclusions](#)

Jobs & Growth

Jobless rates still high

According to the latest seasonally-adjusted statistics published on 31 March 2010, unemployment in the euro area rose to 10% in February while the EU rate rose to 9.6%. Amongst the Member States the Netherlands still has the lowest level at 4% with Latvia now having the highest rate at 21.7%. This translates into 23.019 million people out of work in the EU, 15.749 of whom are in the euro area.

There is slightly better news regarding youth unemployment which is down slightly from 21.4% at the end of last year to 20.7% in February 2010.

In other parts of the world unemployment was 9.7% in the United States and 4.9% in Japan.

Link to [Eurostat statistics](#)

EU Employment and Social Outlook: focus on the information technology sector

The European Commission in April published the latest edition of its EU Employment and Social Outlook monitoring report, highlighting an improvement in perception of the labour market in Europe, with firms and consumers less pessimistic about the employment outlook. Demand for labour is starting to show a relative improvement and is now moving close to levels observed a year earlier and although the labour market continues to deteriorate, the last 5 months are considered the best in terms of employment since mid-2008.

This month's special focus sheds light on the state of the **information technology (ITC)** sector.

There are three main sectors in ITC namely office equipment and computers; audio, video and telecom equipment and optical and precision instruments. The sector as a whole was worth 154 billion in the EU in 2006. Industry production grew at an annual average of 6.4% between 2003 and 2008 making it the fastest growing in the whole of European industry.

In 2006, the sector accounted for some 134,000 businesses employing around 2 million people representing 6% of manufacturing employment. 53% of jobs were in medical, optical and other precision instruments, 40% were in audio, video and telecom equipment manufacturing and the remaining 17% in office equipment and computer manufacturing.

Recently, the sector has been severely affected by the economic crisis with employment dropping to 1.57 million people in the 3rd quarter of 2009 a decline of 10% compared to a year earlier. Growth in 2008 being no more than 1.4%. Recent statistics recorded by the European Restructuring Monitor (ERM) indicate that the economic downturn is still impacting the sector. From September 2008 to March 2010 the number of job losses announced was more than 4 times that of jobs gained.

In Europe, ICT is strong in terms of collaborative capacity on future developments and innovations and has a strong science base. Europe can also boast several strong brand names. On the other hand, weaknesses are the high cost of low-skilled labour, the lack of job mobility, the lack of standardisation between

EU countries and the lack of a single European market. Opportunities lie in the growing health and medical equipment sector, and the high-end market segments, in which companies provide high value added, supplying custom-made products in low volume.

Link to [EU Employment and Social Outlook](#)

National Developments

Sweden

Survey explores trends in working environment and health

The Swedish Longitudinal Occupational Survey of Health studies relations between the work environment and health over time. This latest study follows on from the 2003 and 2005 Swedish Work Environment Surveys, and follows the same group of people with questions about working and living conditions and health. Research based on the survey has covered issues such as downsizing, leadership, control and flexibility, and their consequences for health.

Link to [Survey](#)

Germany

New insights into gender inequalities at work

According to the findings of a study by the Hans-Boeckler Foundation, policies and practices of gender equality promotion at the workplace show insufficient results. It concludes that not only management, but also works councils and trade unions, fall short in promoting gender equality in practice. The study is considered one of the most comprehensive pieces of research on gender gaps at establishment level in Germany to date.

Link to [Hans-Boeckler Foundation - gender equality](#) (in German)

UK

Employment agencies and businesses: amendment regulations published

The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2010 have now been published in the UK and are due to enter into force on 1 October 2010. These regulations address the proper conduct of employment agencies and employment businesses, increase protection for vulnerable and work-seekers, reduce certain regulatory burdens on employment agencies and make further minor amendments to the 2003 Regulations.

Link to [2010 Regulations](#)

Belgium

From Renault to InBev: the role of social dialogue in collective redundancy

EIRO has published an analysis of the role of social dialogue in restructuring, looking at the so-called 'Renault law' which came into existence in 1998, after the Renault-Vilvorde restructuring case in 1997. The law was intended to strengthen the law on business restructuring and closure, establishing a regulatory framework on information and social dialogue, but recent social and economic events have prompted new debates about the law. The recent Anheuser-Busch InBev case points to the role of social dialogue in reaching a compromise.

Link to [Press release InBev case](#) and [EIRO analysis](#)

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