



# Eurovision

December 2008

## Human Capital (Employment)



### Irish employers face flurry of new legislation

The Irish Government has recently entered into a transitional agreement with employer and trade union bodies which contains a number of proposals having implications for Irish employers. The Government has been forced to revise its existing ten-year strategic framework for economic and social development in light of the significant challenges currently facing the Irish economy.

The new deal provides for a national pay increase of six per cent over 21 months, across both the public and private sector. It has however been agreed that there will be a "pay pause" of three months in the private sector and eleven months in the public sector.

The Government intends to transpose into Irish law the pensions provisions of the Acquired Rights Directive by requiring employers to replicate pension rights following a TUPE transfer. The provisions are due to come into force by the end of the year and could have significant financial repercussions for

employers in the current economic climate.

The Government has also signalled its intention to put in place a national framework providing equal treatment for agency workers. It has long been under pressure from the unions to introduce domestic legislation on this issue. Whilst there has now been agreement at an EU level on agency workers the Government has said that it will put in place its own framework, one that is "appropriate to the Irish economy". Agency workers are therefore unlikely to get equal rights from Day One, in the same way that the UK has made alternative provisions. The Employment Agency Regulation Bill is due to be published by the end of the year.

The Employment Law Compliance Bill is also due to come into force by the end of 2008. The Bill is designed to secure better compliance with employment law through information and enforcement activities.

### EU-wide smoking ban

Vladimir Spidla, the EU Employment and Social Affairs Commissioner, has announced his intention to introduce an EU-wide smoking ban. At a recent press conference in Brussels a spokeswoman for Mr Spidla said that the Commission would like to see a ban in all workplaces, as protection against passive smoking currently varies across Europe. The Commissioner is particularly concerned about bars and restaurants where smoking is still permitted in many Member States. The Commission will be consulting with employers and unions about its proposals. Any legislation will not come into effect until after the new Commission has been appointed, which will take place in Autumn 2009.

The Greek Government has recently announced a ban on smoking in public places, including bars, restaurants and workplaces, from 1 January 2010. Greece is one of the only Member States where smoking is still allowed in almost all public places.

Passive smoking kills some 80,000 people a year in Europe. According to a survey carried out by the European Commission in 2005, tobacco is the single largest cause of avoidable death in Europe, accounting for more than half a million deaths every year. Despite the varying support among their law-makers, nine out of ten Europeans said they would like smoke-free offices.

### New rights for older workers in France

The French Government has recently outlined proposals to further promote the employment of older workers. From 1 January 2009 people over the age of 65 and those aged 60 or over with a full pension contribution record will be allowed to continue working whilst in receipt of a pension. Furthermore, those people who continue to work beyond their normal retirement age will be entitled to receive an enhanced pension when they finally retire. Employers will also be required to notify

the relevant authority on an annual basis about the number of employees who have retired, together with details of their age and any monies paid to them.

With effect from January 2010 French employers will no longer be able to force employees to retire at 65 and any collective agreements that contain such provisions will be null and void to that extent.

Unions and employers have also been asked to work together to put in place agreements to promote the employment of older workers. Those employers that fail to do so could face a financial penalty of up to 1% of their wage bill.

France has also agreed new collective bargaining rules. The right of the five major trade unions to participate in collective bargaining, irrespective of how strongly they represent employees, is to be abolished by 2012. Going forward, trade unions will have to gain at least 10% of the votes in workplace elections in order to participate in company-level negotiations, and at least 8% of the votes at branch or national level.

**New EU legislative proposals:** MEPs have called on the European Commission to submit new legislative proposals to revise existing equal pay laws in an attempt to address the gender pay gap. The European Parliament is concerned about the continuing pay gap between men and women across Member States despite the significant body of legislation that has been in place for the last 30 years.

Women earn on average 15% less than men in the European Union and up to 25% less in the private sector.

MEPs have said that the new legislation should cover the possibility of compulsory equal pay audits, the publication of results and fines for those who do not comply. It has also called

for greater powers for equality bodies to enforce equality legislation. The Commission has been given until 31 December 2009 to respond.

A new Directive on European Works Councils could also be in place as soon as the end of this year if the European Council and Parliament are able to reach agreement on proposals that were outlined in July. Key proposals include strengthening the definitions of information and consultation; changing the rules on the composition of the special negotiating bodies that negotiate EWC agreements; and giving trade unions a greater role. The first reading of the draft Directive is due to take place on 15 December.

**Working time opt-out:** In June 2008, EU Social and Employment Ministers agreed a compromise under which the UK will retain its right to opt out of the maximum 48-hour working week under the Working Time Directive. On 5 November, however, the European Parliament's Employment and Social Affairs Committee voted to end the UK's right to opt out within three years of the new Working Time Directive coming into force. There will now be informal negotiations with a view to reaching a possible compromise ahead of the final vote in Parliament on 17 December. One in ten British employees works more than 48 hours per week.

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