June 2009

Euroview

Employment

German Government extends short-time working benefits

In Germany short-time working has been a key element in the Federal Government's response to the current recession. It enables employers to avoid redundancies by placing employees on reduced hours for a set period of time. In such circumstances employees are entitled to receive short-time working benefits from the Government to help compensate them for their reduced earnings. The benefits are paid to employees via their employers.

Use of the scheme has risen massively over the last year. According to the Federal Employment Office there are currently between 1.3 and 1.5 million employees working reduced hours. In January 2009 over 10,000 employers applied for public short-time working benefits in respect of 290,600 employees, citing economic reasons. This represented an increase of 274,000 claimants on the same time last year.

In response to these statistics the German Government has decided to increase the period of entitlement to short-time working benefits from 18 to 24 months. It will also relieve employers of their obligation to pay social security contributions if they have been operating short-time working for at least 6 months.

In a similar development the French Government has set up a new fund to support short-time working and to help redundant workers gain new skills in an attempt to stem rising unemployment levels. Short-time benefit levels are set to increase from 60% to 75% of normal gross pay and will be paid for longer periods. Special schemes have been set up for industries hit by the current crisis, including the automotive sector.

The German Government is also introducing measures in an attempt to regulate senior executives' pay and link it more closely to the long-term performance of their organisation. Under the proposals full company supervisory boards (which include shareholders as well as employee representatives) will be responsible for setting pay. They will no longer be able to delegate this responsibility to remuneration panels and could be held personally liable for any damages arising from inappropriate remuneration. They will also have the power to reduce executives' pay where a company performs badly. The draft legislation is now being finalised before going to Parliament for approval.

Short-time working has so far mainly been used to protect blue-collar jobs. Over 170,000 employees in the German automotive industry have already had their hours reduced in response to the global downturn in orders.

French Supreme Court seeks to curtail employers' discretion

The Employment Chamber of the French Supreme Court recently ruled that whilst employers retain the right to grant bonuses to some employees and not others, any difference in treatment must be justified in an objective manner. It concluded that the principle of "equal pay for equal work" applies to discretionary bonuses in the same way as other earnings.

This case involved an employee who, unlike the rest of his colleagues, had his discretionary bonus reduced year on year. He issued proceedings claiming that he was entitled to his unpaid bonus. Initially his claim was rejected because the Court of Appeal said that, in line with previous case law, the principle of equal pay for equal work did not apply to discretionary bonuses – the very nature of the bonus scheme meant that employers had a wide discretion over the amount of any payments.

The Supreme Court disagreed and in doing so has placed the burden for justifying any differences in treatment squarely on the shoulders of employers. It held that employers cannot avoid their obligation to give objective and relevant reasons for any differences in pay by saying they have discretion whether to pay a bonus or not.

The Supreme Court's reasoning sounds familiar to the approach adopted in the UK Courts, namely that employers must not exercise their discretion in a way that is discriminatory, irrational, arbitrary or perverse.

Spain takes steps to tackle rising unemployment

New legislation came into force on 6 March as a result of the need for urgent action to address Spain's worsening economic situation. Spain currently has the highest unemployment figures in the European Union: unemployment levels rose to 17.36% in the first quarter of 2009. Youth unemployment is a particular problem, with almost one in three of all people aged 15 to 24 affected, by far the highest rate of any Member State. According to the IMF, the Spanish economy will not commence recovery until 2010 with a predicted 3% decline in 2009.

Under the new rules the Government will allow employers to make reduced social security contributions if they make temporary lay offs rather than full scale redundancies. There will also be greater protection for older employees who face losing their jobs and incentives for employers which hire workers on a part-time basis.

In order to encourage employers to recruit long-term unemployed people the Government will pay up to 100% of their social security contributions for up to 3 years if they take on individuals who have been out of work beyond a certain period of time.

The Government has also extended support for the unemployed by abolishing the current one-month waiting period for claiming unemployment benefits.

The new measures will stay in place until the end of the year at least, but may be extended depending on how the Spanish labour market evolves during 2009. The Government has said it will consult with employer and union representatives before taking any further steps.

The Spanish Government has announced a series of measures designed to preserve jobs, promote future employment and assist the unemployed.

FURTHER INFORMATION

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