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BEERG - Europe:

Germany: EU takes legal action on minimum wage



The European Commission has taken legal action against Germany over the disputed application of the country's new minimum wage law to international lorry drivers following widespread protests from the haulage industry. Announcing its decision on Tuesday, the Commission said that, while it welcomed the introduction of the minimum wage in Europe's largest economy, its impact on road transport restricted the freedom of service and movement of goods in the EU "in a disproportionate manner".

Chancellor Angela Merkel's government introduced the €8.50-an-hour minimum wage on January 1 – and applied it across the board, including on foreign lorry drivers driving across Germany. Less than a month later, Berlin suspended the law's application on foreign drivers after a torrent of complaint from foreign haulage operators about long delays at borders caused by German officials checking drivers' pay details. No other country in Europe applies its minimum wage in this way to transiting lorry drivers.

The Commission has now decided that suspension alone is not sufficient because it does not give legal certainty that the rule could not be re-applied at any time. After weeks of talks with Berlin, Warsaw and other capitals, Brussels has sent a formal notice to Germany, the first step in an infringement procedure which could lead to the European Court of Justice, if further negotiations fail to solve the dispute. The German labour ministry, which now has two months to respond, said it would study the commission's letter.

The Commission said: "Whilst fully supporting the introduction of a minimum wage in Germany, the Commission considers that the application of the Minimum Wage Act to all transport operations which touch German territory restricts the freedom to provide services and the free movement of goods in a disproportionate manner...The Commission considers that more proportionate measures are available to safeguard the social protection of workers and to ensure fair competition, whilst allowing for free movement of services and goods."

The International Road Transport Union, the haulage industry representative organisation, welcomed the Commission's decision, saying: "National measures like the German [minimum wage law] applied on highly mobile trades, such as international road transport, add significant administrative and financial burdens to operators and seriously undermine the proper functioning of the internal market. Germany now has a responsibility to Europe's transport operators and Economy to resolve this issue quickly."

Denmark: Mayor of Copenhagen bans use of Ryanair



The mayor of Copenhagen, Frank Jensen (pictured), has said that city officials can no longer book tickets on Ryanair - even if it was the cheapest option available. He said that this was due to the wages that the airline pays its staff and its lack of a Danish collective-bargaining agreement.

In an interview with Danish newspaper *'Berlingske'*, he said that in Copenhagen "we have fought hard against the scourge of social dumping...Therefore we require all of those who deliver services to the municipality, including those who would sell us plane tickets, to offer their employees proper salaries and working conditions.

He added: "Thus, we already have a ban on flying with Ryanair. Our rules mean that we cannot enter contracts or buy goods from suppliers that do not pay proper salaries."

'Social dumping' is defined by the European Commission as a situation "where foreign service providers can undercut local service providers because their labour standards are lower".

But Ryanair hit back against the allegations, calling them "inaccurate". A spokesman for the airline said: "We are surprised at Mayor Jensen's comments which don't take account of the fact that Ryanair's pilots and cabin crew enjoy high pay, job security and already have a collective agreement with Ryanair...We are also surprised at his boycott call when all Ryanair flights in Copenhagen are being handled by workers who are represented by Danish unions. Ryanair is growing tourism, traffic and jobs in Denmark."

Ryanair first arrived in the Danish capital in March and has been facing issues since. The budget airline saw its first flight from the Danish capital grounded for three hours by demonstrators. The protest was prompted by the airline's refusal to enter into a collective bargaining agreement with a union for pilots and cabin crew.

Ryanair and the Danish Confederation of Trade Unions (LO) are scheduled to discuss in the near future whether the airline should adhere to Irish or Danish rules at their Copenhagen Airport base. LO said that if the so-called 'recognition proceedings' determine that Ryanair must follow Danish rules, the decision will clear the way for a blockade that would bar members of unions including 3F, Dansk Metal and HK from doing work for Ryanair, thus effectively making it impossible for the company to operate out of Copenhagen Airport.

Last month, Ryanair announced that it would expand its Copenhagen operations to include new direct flights to Budapest, Malaga and Alicante.

Germany: Record year for strikes



Germany has been hit hard by an unprecedented wave of strikes this year, an economic think tank has said. Labor disputes across multiple sectors have cost Europe's largest economy dearly.

German workers have already been on strike for twice as many days this year as they were in the whole of 2014, putting Europe's largest economy on course to set a new record for industrial action <http://goo.gl/kWoYn4>, a researcher for a conservative think tank said in a newspaper interview last week.

Hagen Lesch, who crunched the numbers at the employer-friendly German Economic Institute (IW) in Cologne, told the "*Rheinische Post*" daily that there had been some 350,000 strike days in Germany from January to mid-May. In 2014, the government recorded 150,000 days lost to strikes.

"2015 should be a record year for strikes as 2006 was before," Lesch said, citing job walk-offs by pilots, train drivers, post office workers and kindergarten and nursery teachers, as well as in metal and electronics industries.

Norway: Union membership dropping



Work by two major labour research institutions shows that fewer Norwegian workers are joining unions. Only 37 percent of those working in the private sector were union members in 2013, an unusually low level in a country with strong labour traditions.

The daily paper, *Dagsavisen* reported that the survey by research foundation Fafo and the Institute for Social Research, ISF, found that union membership has been falling, especially among workers aged 35 to 44, over the past number of years.

While membership remains high within the public sector and has only slipped slightly, from 80 to 79 percent over the past 20 years, it fell in the private sector from 44 per cent in 1995 to 37 today.

Overall union density in Norway has dropped from 57 to 52 percent over the same 20 year period. It would appear that the major reason for the drop in union membership relates to changes in the structure of the economy, with fewer industrial and more service sector jobs.

AMEERG - Africa and Middle-East:

Israel: Push to ban country's soccer team



Palestinians are kicking their conflict with Israel into the arena of international football with a push to have Israel barred from Fifa, the sport's federation. Sepp Blatter, Fifa's president, arrived in the region on earlier this week for meetings with Israeli and Palestinian leaders and sporting officials aimed at defusing the conflict and avoiding a vote in Zurich next week. The vote at Fifa's May 28-29 Congress would need the support of three-quarters of delegates to pass.

After meeting Benjamin Netanyahu in Jerusalem, Mr Blatter said he had secured the Israeli prime minister's agreement to a proposal the Israeli and Palestinian teams play a match in Zurich in the future. Mr Blatter said the call for a vote to suspend Israel on May 29 was a "very unusual and therefore a very serious matter".

The Palestinians say Israel has violated Fifa regulations by restricting players' movements and impounding football equipment. The move is not motivated by politics, they add. They point to the exclusion of apartheid-era South Africa from international sport that came to symbolise the international isolation that helped end white rule. Palestinian officials and activists in the Boycott, Divestment and Sanctions movement hope that Mr Netanyahu's swearing-in last week of a new right-wing government will give new momentum to their push to bar Israel.

Jibril Rajoub, the former Palestinian Authority security boss and head of the Palestinian Football Federation who is leading the campaign, said: "The Congress should put Israel in a corner — raise the red card — and tell it: 'either you abide by the rules, or you are out'." The Palestinians say Israel restricted the movement of players, referees and coaches and those of foreign teams within Palestinian territories and on the Jordanian border. The national team relies on Amman airport for games against foreign sides.

Miri Regev, the sports and culture minister, said the Palestinian push for the vote was "shameful".

Ofer Eini, president of the Israel Football federation, said at a press conference with Mr Blatter: "The claims of the Palestinians... are politically motivated, and we must make a very strict separation between politics and football."

South Africa: Bill to make unions pay for strike-related damage rejected



South Africa's parliament labour committee on Wednesday rejected a proposed draft bill that would have made trade unions partly responsible for the cost of strike-related violence and damage to property.

The private member's bill was tabled by Democratic Alliance (DA) labour spokesman Ian Ollis, who said the committee's rejection of the bill was a "missed opportunity". The bill also proposed that the Labour Court be empowered to compel arbitration proceedings when strikes became violent. The issue has become increasingly relevant as the number of destructive strikes rises.

African National Congress members on the committee voted against the adoption of the bill arguing that it duplicated provisions in the Regulation of Gatherings Act, which covered damage and violence during strikes. They also said the bill pre-empted deliberations under way within the National Economic Development and Labour Council (Nedlac).

The Constitutional Court has confirmed that organisers of marches can be held liable under the Regulations of Gatherings Act for damages resulting from protests.

The City of Cape Town is relying on this judgment to sue the South African Municipal Workers' Union for R100,000 in damages after violence and damage to property was caused in strike-related protests in 2011. The National Union of Mineworkers is also facing an R15m claim by Cape Town firm Good Hope Construction, as compensation for strike-related damage to property and loss of income.

Department of Labour director-general Thobile Lamati said the Nedlac was discussing the issue of strike-related violence and whether the legal provisions allowing for intervention to prevent prolonged strike action were adequate. "The matter Mr Ollis is raising is sitting in Nedlac."

While Mr Ollis acknowledged that there were overlaps between the Regulation of Gatherings Act and his proposal, he said the fact that the act had failed to stem a rising trend of strike-related violence meant it was not effective. The act imposes restrictions and prohibitions on demonstrations that cause riot damage to third parties but Mr Ollis argued that it did not cover all circumstances related to strikes.

DA MP Michael Baigram said having the bill enacted as law would obviate the need for parties to go to court to get compensation for strike-related damage. The courts have already ordered unions to bear the cost of damages caused during strikes.

The Congress of South African Trade Unions opposed the draft bill on the grounds that it was unconstitutional, would limit the right to strike and bankrupt trade unions.

GLOBAL:

US: Rough ride ahead for UAW's "works council" plan?



In last week's issue we reported on the ratcheting up by the UAW of its push for the establishment of a German-style works council at the Volkswagen plant at Chattanooga.

The document published by the UAW last week – "*Vision Statement for a Collectively Bargained Works Council*" – is little more than a somewhat extended version of "*Exhibit B*" from the "*Agreement for a Representation Election*" of January 27, 2014 between the UAW and Volkswagen Group of

America (VWGOA).

The UAW believes that it is "entitled by law to act as the exclusive representative of all employees in the VWGOA Hourly Unit for the purposes of collective bargaining" as UAW Local 42 has signed membership cards for 816 members in the bargaining unit, a majority of all workers in the unit. It says that it has recently notified the US Department of Labour of this situation.

The UAW says it wants to establish a "dual-model" labour relations system in the plant. The union would be responsible for collective bargaining with the company over such issues as remuneration and working time. As part of the initial collective bargaining agreement the union and the company would negotiate a constitution for a works council which would have "information, consultation and co-determination rights" and would be responsible for handling a range of in-plant, day-to-day issues.

Given that neither the management nor the workers at the plant would have any previous experience of such a structure its remit would be rolled out gradually over several years. All workers in the plant, save managers and supervisors as defined in the NLRA, would be entitled to vote for the works council and stand for election to it.

Matters that would initially be handled by the works council could include:

- Topics at the plant where a high need for involvement is readily apparent; these would include work organization, especially agreements on shift calendars and scheduling of overtime;
- "Social issues" such as health and safety; and
- Participation in the implementation of the grievance procedure.

The proposed role of the Chattanooga works council will be broadly familiar to anyone used to dealing with works councils in Germany. There is, however, one major difference between what is being proposed for Chattanooga and what is to be found in Germany.

The structure and powers of works councils in Germany are defined by law and not by collective agreement. The reason for this is that the powers of a works council directly impact on managerial prerogative.

Despite arguments that strong works councils are, somehow or other, a "win/win" for all concerned, in reality the balance of power within industry is a zero-sum game. The stronger union/works councils are the more inhibited is managerial freedom to make and implement decisions.

As we wrote recently in this newsletter about the abortive negotiations between employers and unions in France earlier this year over possible changes to the structure of employee representation with companies of all sizes, no rational economic actor voluntarily agrees to give other parties power to constrain their freedom of action.

No one says: "I'm am going to give you the power to make my life miserable". (And many readers of this newsletter know just how miserable a works councils or comité d'entreprise can make your life!). Which is why, when it comes to balance of power issues in industry in practically all European countries it is legislation that defines the rules of the game, not negotiations between employers and unions.

In its "Vision" statement the UAW claims that it will collectively bargain the constitution of the proposed works council with management. As we in BEERG know from our extensive experience in negotiating the establishments of European Works Councils (within a framework set by European Union law) it is relatively easy to agree on the structure of the EWC, the scheduling of meetings, and the issues that will be discussed.

Matters become difficult when EWCs begin to push for delaying or veto powers – "consultation with a view to reaching an agreement" or "no national consultations until the EWC has given its opinion". And if we can't reach agreement on the constitution or powers of the EWC there is always the fall-back provisions of the Subsidiary Requirements, the default model EWC that kicks in, absence agreement between management and the employee-side negotiators.

Once an EWC is established then the legislation provides procedures to be followed by the parties in the event of disputes and disagreements. These procedures generally require the parties to submit the issues in dispute for a decision by government-appointed labour courts or employment tribunals. The decisions of these bodies are binding on the parties.



The UAW "Vision" paper has nothing to say about what is to happen if the union cannot reach agreement with VW US management on the constitution of a works council because management is unwilling to hand power over to the works council.

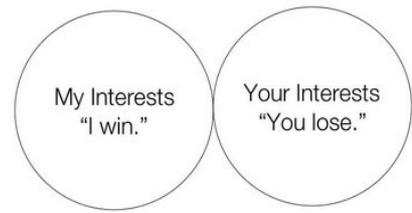
Will it call its members out on strike over the matter? What other leverage does it have? Does it believe that top management in Germany will order US management to fold in the negotiations?

Nor does the paper have anything to say about what is to happen if there is a dispute between the works council and management, assuming agreement can be found on its constitution.

In the absence of a legal framework for works councils in the US would management agree to a system of binding arbitration? If so, this would be handing significant leverage to the works council as it would be a "no brainer" to refer issues to arbitration where there is always the chance of a "win". Which brings us back to balance of power issues.

In the world of labour relations what can look neat on paper can turn out to be anything but in reality.

Zero Sum



UK/US: Shareholders reject 'labor relations independent monitoring' resolution



In a recent issue of the BEERG newsletter we reported on the push by a coalition of unions, spearheaded by the Teamsters from the US and Unite from the UK, to have shareholders of the UK-based passenger transport company, National Express, support a motion at the company's AGM which called for an "independent enquiry" into the labour relations practices of the company's US school bus subsidiary, Durham School Services. On the day the motion,

Resolution 22, received the backing of just 18.5 percent of shareholders.

Professor William Gould, former chair of the US National Labor Relations Board and independent monitor of UK-based transportation company FirstGroup from 2008-11 said he was proud of the way the system had worked in that company and felt obliged to let National Express shareholders know the facts about the programme.

ITF inland transport secretary Mac Urata commented that the management of other key public transport multinationals the ITF had recently met accepted social dialogue as the basis for resolving labour problems. He added that National Express management was unique in putting itself into the global spotlight because of its continued denial of violations of basic workers' rights.

Global: Stable employment relationships on downside



Only one quarter of workers worldwide is estimated to have a stable employment relationship, according to a new report by the International Labour Organization (ILO).

The *World Employment and Social Outlook 2015 (WESO)* (Here: <http://goo.gl/DHWfzy>) finds that, among countries with available data (covering 84 per cent of the global workforce), three quarters of workers are employed on temporary or short-term contracts, in informal jobs often without any contract, under own-account arrangements or in unpaid family jobs.

Over 60 per cent of all workers lack any kind of employment contract, with most of them engaged in own-account or contributing family work in the developing world. However, even among wage and salaried workers, less than half (42 per cent) are working on a permanent contract.

The first edition of the new, annual report, entitled ***The Changing Nature of Jobs***, shows that while wage and salaried work is growing worldwide, it still accounts for only half of global employment, with wide variations across regions. For example, in the developed economies and Central and South-Eastern Europe, around eight in ten workers are employees, whereas in South Asia and Sub-Saharan Africa the figure is closer to two in ten.

Another current trend is the rise in part-time employment, especially among women. In the majority of countries with available information, part-time jobs outpaced gains in full-time jobs between 2009 and 2013.

"These new figures point to an increasingly diversified world of work. In some cases, non-standard forms of work can help people get a foothold into the job market. But these emerging trends are also a reflection of the widespread insecurity that's affecting many workers worldwide today," said ILO Director-General Guy Ryder.



"The shift we're seeing from the traditional employment relationship to more non-standard forms of employment is in many cases associated with the rise in inequality and poverty rates in many countries," added Ryder. "What's more, these trends risk perpetuating the vicious circle of weak global demand and slow job creation that has characterized the global economy and many labour markets throughout the post-crisis period."

"The way forward is to ensure that policies take into consideration the evolution of how we work today. This means stimulating investment opportunities to boost job creation and productivity, while ensuring adequate income security to all types of workers, not just those on stable contracts," said Ryder.

Growing inequalities

Income inequality is increasing or remains high in the majority of countries – a trend that is aggravated by the rising incidence of non-permanent forms of employment, growing unemployment and inactivity. The income gap between permanent and non-permanent workers has increased over the past decade.

The report finds that despite the positive steps made towards improving pension coverage, social protection, such as unemployment benefits, is still mainly available only for regular employees. For the self-employed, even pensions are scarce: in 2013, only 16 per cent of the self-employed contributed to a pension scheme.

Labour regulation matters



According to the report's authors there is a growing recognition that labour regulation is necessary to protect workers – especially those in non-standard work – from arbitrary or unfair treatment and to enable effective contracts between employers and workers.

Employment protection laws have been very gradually strengthening over time, a trend that is common across most countries and regions. However, in Europe, labour protection has generally decreased since 2008 when the global financial crisis started.

"The key issue is to match regulation to an increasingly diversified labour market," said Raymond Torres, Director of the ILO Research Department and lead author of the report. "Well-designed regulations can support both economic growth and social cohesion."

Global supply chains

The report finally looks at the increasing importance of global supply chains (GSCs) in shaping some of the employment and income patterns that are observed in labour markets today.

An estimate based on some 40 countries with available data finds that more than one in five jobs worldwide is linked to global supply chains – that is, jobs that contribute to the production of goods and services that are either consumed or further processed in other countries.

The report considers various policies that can assist global supply chains to bring benefits to enterprises and economies as well as to workers, something that has not always been the case in certain sectors where GSCs are common.

Other key trends and data from the report:

- At the global level, **employment growth** has stalled at a rate of around 1.4 per cent annually since 2011. In the developed economies and European Union, employment growth since 2008 has averaged only 0.1 per cent annually, compared with 0.9 per cent between 2000 and 2007.
- Nearly 73 per cent of the global jobs gap in 2014 was due to a **shortfall in employment among women** who make up only around 40 per cent of the global labour force.
- The direct **impact of the global jobs gap on the aggregate wage bill is substantial**: it corresponds to an estimated US\$ 1.218 trillion in lost wages around the world. This is the equivalent to about 1.2 per cent of total annual global output and approximately 2 per cent of total global consumption.

- In addition to the reduction in the global wage bill due to the jobs gap, slower wage growth has also had a substantial impact on the aggregate wage bill. For example, in the developed economies and the European Union, slower wage growth during the crisis and post-crisis periods corresponded to an estimated \$485 billion reduction in the region's aggregate wage bill in 2013.
 - Because of multiplier effects from increased wages, higher consumption, and increased investment levels, closing the global jobs gap would add an estimated \$3.7 trillion to global GDP – equal to a one-time, 3.6 per cent boost to global output.
 - Across 86 countries covering 65 per cent of global employment, more than 17 per cent of employed persons were **working on a part-time basis** of less than 30 hours per week. The number of women engaged in part-time employment stood at 24 per cent compared with 12.4 per cent for men.
 - Out of 40 countries (representing two thirds of the global labour force), **453 million people were employed in global supply chains in 2013**, compared with 296 million in 1995. This represents a share of 20.6 per cent in total employment in the countries covered, compared with 16.4 per cent in 1995.
 - At the global level, **52 per cent of employees are currently affiliated to a pension scheme, compared with 16 per cent of the self-employed.**
 - Nearly **80 per cent of employees with a permanent contract are currently contributing to a pension scheme**, compared with just above **half (51 per cent) of employees with temporary contracts.**
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THE BEERG AGENDA:

BEERG Members Meeting June 3 – 5, Hotel Estela, Barcelona

Below is revised agenda for June BEERG members' meeting. The meeting will start with a networking and welcome reception at the Hotel Estela poolside on Wednesday night (1930H – 2100H).

To attend and book accommodation at the Hotel Estela email: convenciones@hotelestela.com and cc derek.mooney@beerg.com so Derek can confirm you are a BEERG attendee.

Wednesday, June 3

- 1430 – 1700 AMEERG Meeting: The Bangladesh Accord 2 years on
- Tom Hayes and Auret Van Heerden
- Labour force and political issue across North Africa
- Koert Debeuf, IDEA international
- 1930 – 2100 *Welcome and Networking Reception*

Thursday, June 4

- 0900 – 1030 The View from China
- **Keynote speaker:** Geoff Crothall, China Labour Bulletin
 - Alan Wild, IBM and Auret Van Heerden
- 1030 – 1100 *Coffee Break*
- 1100 – 1230 Over There - Overpaid and Underpaid? The Debate on Inequality in USA
- **Keynote speaker:** Jon Hiatt, AFL-CIO
 - **Keynote speaker:** Tim Bartl, HR Policy's Centre on Exec Comp
 - Wilma Liebman, former chair of the NLRB
 - Rick Warters, UTC
- 1230 – 1400 *Lunch*
- 1400 – 1600 BEERG Members Only: European Update
- Discussion on consolidation of three Information + Consultation Directives and the upcoming review of EWC Directive.
 - Update on developments in EWC/SNB negotiations
 - The new push on European social dialogue
- 1630 – 1730 1630 Demonstration by Context, of a new internet-based interpretation system which could be used for select committee meetings.
- 1930 – 2230 *Reception + Dinner (at the Hotel Estela)*

Friday, June 5

- 0930 – 1100 Two Down + One To Go: Greek and UK Elections over, Spanish elections to come: European Labour Relations Implications.
- Fabian Zuleeg, European Policy Centre
 - Robbie Gilbert, BEERG
 - Koert Debeuf, Fmr Advser to Belgian Prime Minister
 - Joe Haslam, Assoc Prof, IE University & IE Business School, Madrid
- 1100 Finish, check-out + light lunch

BEERG Dates for your Diary (*contact us for more information*):

Date	Event	Venue
Early Sept Date TBC	3rd Annual BEERG/Jones Day seminar on developments in French labour law	Jones Day Office, Paris
Sept 14 - 16	BEERG training program: <i>Understanding the Global Labor Challenge</i>	Ritz Carlton Hotel, Georgetown, Washington DC
Oct 7/8	BEERG Members Meeting (with AMEERG Session on morning of Oct 7th)	Hotel Bloom, Brussels
Oct 21-23	BEERG flagship training program: <i>Managing Labour Relations in Europe</i>	Hotel Estela, Sitges, Barcelona, Spain