

European Employment Law Cases

2017 | 3

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| ECJ | Rules on transfer of undertaking apply in a 'pre-pack' insolvency |
| IRELAND | Policy requiring employees to speak English at work justifiable |
| BELGIUM | Pay can only be modified with transferred workers' consent |
| FRANCE | Company agreement granting half-day leave to female employees is lawful positive discrimination |

EELC

European Employment Law Cases (EELC) is a legal journal that is published four times per year. Its principal aim is to publish judgments by **national** courts in Europe that are likely to be of interest to legal practitioners in other European countries. To this end, EELC has a *national correspondent* in almost every country within the EU (plus Norway), who alerts the Editorial Board to such judgments within his or her own jurisdiction. A case report describes the facts of the case and the main aspects of the judgment. It also includes a Commentary by the author and, in many cases, comments on the case by lawyers in other jurisdictions. Readers are invited to submit case reports, preferably through the national correspondent in their jurisdiction. Guidelines for authoring a case report are available from the Editorial Board. The names and contact details of the national correspondents are listed on the inside of the back page. Besides case reports, EELC publishes the occasional article.

EELC also publishes summaries of recent judgments by the Court of Justice of the EU (the ECJ) that are relevant to practitioners of European employment law, as well as Advocates-Generals' opinions and brief summaries of questions that have been referred to the ECJ for a preliminary ruling.

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Editorial

Future of Europe

When writing this editorial, Juncker's State of the Union which takes place on 13 September still has to follow. I reckon there will be some optimism in his speech, as both France and Germany are following an EU-minded course and the economy overall is doing well. Having said that, there are still major issues that need to be resolved in the EU arena, such as migration, terrorism, Brexit and Euro-scepticism.

How these (and other) issues are going to be resolved, and which direction the EU will go in, is, in the meantime, far from clear. The white paper on the Future of Europe of 1 March 2017 presents five scenarios regarding that direction: (i) carrying on, (ii) nothing but the single market, (iii) those who want more do more, (iv) doing less more efficiently and (v) doing much more together. Choices made about all this will certainly impact the course of the social dimension of Europe, and therefore our day-to-day legal practice. This is explained in some detail by the Commission in its reflection paper on the social dimension of Europe of 26 April 2017. Although these choices will undoubtedly affect employers and employees throughout the entire EU, in the Netherlands at least, this paper seems not to have held the attention of the public at all, and was rarely discussed.

In contrast, a hot topic in the Netherlands was the *Smallsteps* case. The ECJ ruled that a so-called 'pre-pack' procedure is fully governed by the Acquired Rights Directive, therefore including Articles 3 and 4. That will quite likely spell the end of a highly controversial Dutch practice and a draft statute in order to give the pre-pack a legal basis.

The above already shows that EU law matters in practice. Once again, case reports in this magazine should that this is particularly true where it comes to equal treatment. No fewer than five cases are about this topic. The Irish court, for example, answered the interesting question of whether or not a policy requiring employees to speak English in the workplace constitutes discrimination grounds of national origin. Not only fundamental rights, but also much more commonplace topics such as leave entitlements require the national courts to consid-

er the proper interpretation of EU law – meaning that this magazine contains something for everyone. Enjoy!

Zef Even, editor