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EWCs: EU Enlargement and EWCs

Summary: *EU opens accession negotiations with Ukraine and Moldova. Though we do not expect this to be finalised anytime soon, will companies with operations in those countries be requested to include employees' representatives from there on their EWCs, even as observers?*



Last week, the European Union opened accession negotiations with Ukraine and Moldova. Both countries are on their way to becoming EU members. But do not expect this to happen anytime soon. Such negotiations can take many years.

Negotiations is also the wrong word. The EU does not negotiate entry terms with applicant countries. It says: *Here is the EU rulebook, our policies, and procedures. You want to be a member? You sign up to them in their entirety.* All that is open to discussion is the speed with which applicant countries will adhere to the Union's *acquis*. No special deals, no opt-outs. UK take note.



As has happened in the past, undertakings with operations in both countries and which also have EWCs in place can expect requests to include employees' representatives from these countries on their EWCs, even if only as observers. It can be difficult to refuse this request, to include representatives from countries that are in the process of joining the EU, if you already include representatives from the UK, a country that has left the EU and whose main political parties have made it clear that they have no intention of applying to rejoin.

A pragmatic reason for refusing Ukrainian and Moldovan involvement could be that neither country, for now, has legal systems in place for nominating representatives to EWCs. Suggestions that the trade unions in these countries could identify representatives is not a solution, as EWCs represent all employees, and not just trade union members. Union membership in both these countries is extremely low.

This is an issue we plan to cover in our October workshop in Sitges: *Planning for EWCD III: What Can You Do Now?* (see panel below).

We will also look at how you can make sure that countries in Central and Eastern Europe are properly represented on your EWC, something that has been developing as an issue for many companies.

Preparing for EWC Directive III: What Can You Do Now



We will hold a 2.5-day workshop in Sitges, Barcelona on EWCD III on October 8 to 10. Download the [draft program PDF](#) now.

If this program is of interest to your organisation, email tom.hayes@beerg.com

EU: Minimum Wages

Summary: Eurofound's annual report on EU Minimum Wages discusses the implementation of Article 4 of the EU's Adequate Minimum Wage Directive. Key takeaway? It is as we suspected: not much is happening on this in most Member States



Eurofound, the research institute of the European Commission, has published [its annual report](#) on Minimum Wages in the EU. Readers of this newsletter will be most interested in the discussion on the implementation in Member States of Article 4 of the EU's *Adequate Minimum Wage Directive*.

Comments on Article 4 can be found on Page 55 of the report. Key takeaway? Not much is happening on this in most Member States, as we always suspected would be the case. Article 4 of the Directive requires Member State governments to “facilitate” and “promote” collective bargaining as the preferred method of wage setting.

It does not require them to “impose” collective bargaining on unwilling parties, either at the level of individual undertakings or sectorally. If unions across Europe think Article 4 of the Directive is the answer to their continually declining membership, then they may need to think again.

What is also worth noting, though the report does not specifically examine this, is that some of the countries with very high levels of collective bargaining coverage also have very low levels of union density. In France union density runs at about 8%, in Spain it is 12%, and in Germany it is now down to 14%.

Also, some countries with high levels of union membership, such as in Scandinavia and Belgium, make use of the so-called “Ghent System” where certain social benefits are accessed through union membership. Whether employees in these countries would join unions in the absence of the “Ghent System” is an open question. There is nothing in this report to suggest that there will be a sudden surge in union membership across the European Union in the years ahead as a result of the *Minimum Wage Directive*.

The European Trade Union Confederation (ETUC) has picked up on the comments on collective bargaining in the report and is critical at the absence of positive measures on the part of most Member States to put measures in place to “promote” collective bargaining.

You can read the ETUC's comments [here](#).

One thing worth noting in the ETUC statement is the repeated call for EU Public Procurement Directives, and national laws, to be amended so that only undertakings with unions and collective agreements would be entitled to bid for public sector contracts.

Given the level of union membership and collective bargaining coverage across Europe, this would mean that the majority on undertakings in Europe would be excluded from bidding. Coercing employees into unions and employers into collective bargaining systems through public sector contracts would result in both employees and employers ending up resentful at being forced to do something they did not want to do voluntarily.

EU: The “right to disconnect”

Summary: *The future of EU telework legislation remains uncertain, with BusinessEurope opposing new laws and calling for flexibility, while the ETUC advocates for a separate law and highlights concerns about AI surveillance*



In late 2023, negotiations between the EU social partners, the European Trade Union Confederation (ETUC) and BusinessEurope, and other employer groups, deadlocked on a possible agreement on telework and the right to disconnect when employer groups found themselves unable to sign off on a final text.

In 2021, the European Parliament called on the EU Commission to bring forward legislation to cover telework and the “right to disconnect”. Given that the Commission President, Ursula von der Leyen, had committed to the Parliament when she was seeking its endorsement for the Commission Presidency five years back, that the Commission would respond positively to any legislative call from the Parliament, the Commission was obliged to bring forward a proposed Directive.

However, this process was paused when the social partners agreed among themselves to open negotiations on the issue. As noted above, these negotiations came to nothing and earlier this year the Commission began the formal process of consulting the social partners on a proposed Directive in line with the Treaty provisions on employment law.

Both BusinessEurope and the ETUC have now responded to the Commission. Their responses can be found [here](#) and [here](#).

Not surprisingly, BusinessEurope believes that existing laws on working time and health and safety provide a sufficient framework to manage remote working and that a new law is not required. Further, rather than trying to impose a rigid framework on remote work, its evolution is best left to employers and workers, individually or collectively, to work out how to manage it in their mutual interest.

For its part, the ETUC believes a new law is necessary, and it again repeats its call for a separate law on managing AI in the workplace to deal with what it calls intrusive management surveillance of people working remotely. It will now be up to the Commission to evaluate the responses and to decide if it wishes to push ahead with a new law. Further developments are unlikely until later this year.

Due Diligence: Dior hit over supply chain abuses

Summary: Our colleague Aurret van Heerden observes how due diligence obligations are increasingly impacting companies and examines how a Dior facility in Italy was unable to claim ignorance to escape liability for labour abuses at a subcontractor



There was an interesting [LinkedIn post](#) by our colleague, Aurret van Heerden, during the past week, on the way due diligence obligations are increasingly impacting companies.

Aurret reports on a Dior facility in Italy being placed in administration for labour abuses at a subcontractor. He asks the question: How was Dior unable to escape liability by claiming ignorance of what went on at the subcontractor? The answer has several components, it seems:

- The Prosecutor's Office argued that the big brands have flawed internal audit systems that fail to detect the regular recourse to subcontracting with abusive labour conditions. This is described as so deeply rooted as to be company policy.
- The Court observed that the company did not verify the capacity of the contractors and failed to carry out effective inspections or audits to ascertain the actual terms and conditions of work. The one 2023 audit had failed to reveal the labour abuses at the contractor. The Court concluded that the company failed to effectively monitor its production chain and the production methods used by contractors and subcontractors.
- This negligence justified the appointment of an administrator to:
 - *analyse the sourcing relationships and avoid or end contracting and subcontracting designed to evade labour law regulations*
 - *develop an organisational structure capable of preventing such abusive contracting in future*
 - *strengthen the internal controls and supplier verification system*

Aurret notes that the appointment of the administrator leaves the normal operation of the business in the hands of the company but demonstrates a determination on the part of the authorities to address the root causes of persistent labour rights violations hiding in plain sight. This action relied on existing Italian law and is in advance of the EU's forthcoming Corporate Sustainability Due Diligence Directive/CSDDD.

Finally, Aurret concludes:

"I'm fairly certain that the Italian prosecutor will not stop with Dior. Or Armani. All of the supply chains in Italy of luxury brands are now in the crosshairs. The "see no evil" subcontracting model that they have relied on up to now is, in my opinion, toast."

For context, the Wall Street Journal reports that according to documents examined as part of the probe, Dior paid a supplier €53 (\$57) a piece to assemble a handbag that sells in stores for €2,600 / \$2,780. Armani bags, meanwhile, were sold to a supplier for €93, then resold to Armani for €250, and ultimately priced at around €1,800 in stores. The cost prices don't include leather or other raw materials. The companies separately cover the costs of design, distribution and marketing.

EU: Freedom of Movement blocked by qualification recognition issues

Summary: *An inadequate recognition of professional qualifications is hindering the freedom of movement for EU citizens, according to the European Court of Auditors (ECA)*



The freedom of movement of EU citizens is being hampered by the inadequate recognition of their professional qualifications, the European Court of Auditors (ECA) argued in a [report](#) published on Monday (1 July). Despite being regulated by an [EU Directive](#) since 2005, national authorities and the European Commission are falling short in ensuring the recognition of professional qualifications of EU citizens moving between member states, the report says.

“A nurse or mechanic who wants to work in another member state can be discouraged by the process of having their professional qualifications recognised: it can be a long and excessively bureaucratic process,” said Stef Blok, the ECA member responsible for the audit, adding that there were “huge procedural disparities between member states” in applying the directive.

Moreover, the report notes that the Commission failed to encourage national authorities to limit the number of so-called regulated professions, which require specific qualifications to be performed. According to the report, the number of such professions varies widely between Member States, ranging from 88 in Lithuania to 415 in Hungary. The auditors also observed that Member States continue to demand far more documentation and checks than specified in the Directive, sometimes leading to excessively long and bureaucratic procedures.

The report’s findings underscore how difficult it will be for an incoming UK Labour government to negotiate a mutual recognition of professional qualifications agreement with the EU when there are such internal barriers within the EU itself to mutual recognition. Labour has said it wants to negotiate such an agreement to make it easier for UK professionals to work in the EU. However, commentators have pointed out how difficult it would be to negotiate such an agreement and, even if one could be negotiated, its value would be undercut by Labour’s hostility to the return of Free Movement between the EU and the UK.

Pay Transparency: Some useful material

Summary: *Our colleague Iain Stark has produced a handy toolkit on the EU’s Pay Transparency Directive, and Corporate Sustainability Reporting Directive (CSRD)*



As readers will be aware, the EU’s *Pay Transparency Directive*, needs to be transposed into national law by June 2026. Where analysis finds pay gaps of more than 5% which cannot be justified by non-gender reasons, management has to engage with employees’ representatives to work out the reasons for the gap and decide on a plan to close it.

We have [posted some material](#) that will be of use from Iain Stark, one of our associates, who was a senior compensation & benefits leader at IBM based in the US and then Europe, and now working as an independent consultant for international businesses. The analysis by Iain also included a side-by-side comparison with the *Corporate Sustainability Reporting Directive* (CSRD) where reporting is coming much faster, starting for many in 2025 for 2024. Iain can be reached at: iain.stark1@gmail.com

For your diary...

Note that events are 'in person' unless listed as a webinar

London Networking Luncheon and Meeting

Wed July 31, 12noon at Oracle's London office

NOTE THIS EVENT IS BROUGHT FORWARD FROM OCTOBER: Join your peers in Downtown London for HR Policy Global's networking luncheon on July 31, 2024. Oracle will again graciously host this informative networking event; exact location and details will be provided upon registration.

[Book London Luncheon](#)

Implications of 2024 Global Elections Super-Cycle

Sept 3, 16H CET / 10am EST 1-hr Webinar

2024 is a super-election year, with elections in 64 countries, covering almost half the global population. The results will significantly impact business and human resources operations, this webinar will provide key updates on regional and country elections

[Book Global Elections Webinar](#)

Europe Members' Network Meeting

Pullman Hotel, Gare du Midi Brussels Sept 18/19

Attendance at our September networking meeting in Brussels is open to all members. Click link on right to book your place at the meeting. Guest speakers will be announced soon, as will the draft meeting agenda and hotel accommodation booking form.

[Book Brussels meeting](#)

Prepare for EWC Directive III: What You Can Do Now

Oct 8 – 10 Sitges, Barcelona

The EU is rewriting the European Works Council Directive - it is expected to become national law, across the EU, by 2027. This specialised workshop to be held at our regular venue outside Barcelona on Oct 8 – 10 incl, will enable participants to start preparing now, in practical ways, for its many implications – [Download Prospectus](#)

[Oct EWCD III Training](#)

*HR Policy Global Members can self-register for events via the links above. If you get a "No Tickets Available for Purchase" message, make sure you are logged in. Non-members should contact [Derek](#).

Upcoming Events Across Europe: See also: [Online list](#) of all upcoming HR Policy Global events

Date	Event	Booking Links	Venue
July 31	<i>London Networking Luncheon and Meeting (Noon start – finish at 3pm)</i>	<u>Book London Luncheon</u>	Oracle offices, London
Sept 3	<i>1-hour Webinar: Implications for your Business of the 2024 Global Elections Super-Cycle</i>	<u>Book Global Elections Webinar</u>	1-Hour Webinar: 16H CET / 10am EST
Sept 18 & 19	<i>Europe Members Network Meeting</i>	<u>Book Brussels meeting</u>	Pullman Midi Hotel Brussels, Belgium
Oct 8 - 10	<i>Prepare for EWC Dir III: What You Can Do Now - European Training Academy in Sitges/Barcelona</i>	<u>Oct EWCD III Training</u>	Hotel Estela, Sitges, Barcelona, Spain