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## EWCs: BEERG testifies before Irish Parliamentary Committee



On Wednesday (June 22<sup>nd</sup>) Tom Hayes of BEERG and Lisa McKeon EMEA Employee Relations Senior Manager with Oracle Corporation, made an oral presentation to the Oireachtas (Irish Parliament) Joint [Committee on Enterprise, Trade and Employment](#) (JCETE) on the need to amend the Irish European Works Council legislation to provide for proper disputes resolution procedures. The JCETE also heard a presentation from the Irish Trade Union SIPTU.

The BEERG and Siptu presentations (see BEERG presentation [text HERE](#)) both highlighted the urgent need for the Irish legislation to be amended speedily and both set out the communications that they separately had with the Irish Department for Enterprise Trade and Employment and asked Committee members to urge the government and the relevant Minister to make the simple, but essential amendments to the Irish legislation.

In response to questions from representatives of the main government and opposition parties, both BEERG and Siptu set out the history to the evolving situation in Ireland post Brexit and both highlighted that the European Commission had already initiated infringement proceedings against Ireland for the lacuna in the Irish law.

Tom Hayes further pointed out that by implementing the changes which the former chairman of the Irish Labour Court, Kevin Duffy had independently drafted at BEERG's behest, Ireland could move from being the bad boy of Europe on this issue to be the best-in-class model for others to follow, with a dispute resolution system based primarily on mediation.

In later exchanges Lisa McKeon set out Oracle's experience of operating its EWC under Irish law and spoke of the practical problems and difficulties posed by the current deficiencies in the Irish law. She also talked Committee members through the operation of a major EWC.

Some of the opposition members, particularly from the left of centre Sinn Féin and far-left People Before Profit-Solidarity, urged increases in the scale of the fines provided in Irish legislation, saying that the levels decided in 1996 (=€12.5k) should be raised significantly, though they did not suggest specific amounts.

As the meeting concluded there was broad agreement that the legal deficiencies in the current legislation should be addressed, and it was suggested by committee members that they consider this matter further, including inviting senior officials from the Department for Enterprise Trade and Employment to set out why it had been so slow in updating the Irish law. (See [media report here](#)).

**Video and transcript of proceedings should be available on [Oireachtas committee's webpage](#) within a week.**

## Europe: Pay increase updates

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Figures from the UK's Office for National Statistics (ONS) show annual growth in regular pay, excluding bonuses, fell by 4.5% in April after adjusting for inflation – the biggest fall since comparable records began in 2001.

Average total pay, including bonuses, fell by 3.7% on the month after taking account of inflation as measured by the consumer price index.

Over the three months to April, real wages fell 2.2%, the steepest quarterly drop in a decade. However, pay including bonuses is outpacing price rises, rising by 0.4% when taking inflation into account.

Sam Beckett, head of economic statistics at the ONS, said a "high level of bonuses" was continuing to "cushion the effects of rising prices on total earnings for some workers." Tony Wilson, director of the Institute for Employment Studies, said: "This is really grim news on pay and is only likely to get worse." He added: "Despite the tightest labour market on record, nominal pay is broadly flat meaning that rocketing inflation is leading to the largest cuts in real pay in at least two decades."

Underscoring the point that companies are relying on non-recurring bonuses to top up pay, Rolls-Royce is to give £2,000 as a one-off payment to 14,000 of its UK workers. The UK aero-engine group told staff this week that it would give the cash lump sum to 11,000 shop-floor workers as well as 3,000 junior managers. The shop-floor workers are also being offered a 4 per cent pay rise for 2022, backdated to March. Rolls-Royce is one of the largest manufacturers in the UK, employing just under 20,000 people at its plants across the country, including at sites in Derby and Bristol.

But Unite which represents thousands of Rolls-Royce workers, rejected the pay offer, saying it "falls a long way short of the cost-of-living crisis claim submitted by our members and their expectations". Senior union representatives are in talks to "decide next steps", a spokesperson added. Lloyds Bank this month announced that 64,000 employees would receive a £1,000 bonus.

Elsewhere, strong wage hikes in response to double-digit inflation are emerging as the next policy challenge for central banks in Hungary and Poland, whose massive interest rate rises have to date failed to curb inflation. Private sector wage growth in Hungary was well ahead of the central bank's 2022 forecast in the first quarter.

Some analysts forecast a 15% increase for the year. Corporate wage growth in Poland has also run well above market expectations since the start of the year. Hungary's inflation challenge has been exacerbated

by an increase in the minimum wage, tax cuts for workers at the beginning of their careers, and public sector wage bonuses under a pre-election spending programme that helped Prime Minister Viktor Orban get re-elected in April.

Meanwhile, a two-step minimum wage hike worth nearly 15% that is planned for the 2023 election year would appear to set Poland on course for a similar predicament. Some analysts say a wage-price spiral is already unfolding in the region's biggest economy.

## Europe: Minimum wage report

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Eurofound [reports](#) that nominal minimum wage rates rose significantly in 2022, compared with 2021. In 20 of the 21 European Union member states with statutory minimum wages, rates increased. When inflation is taken into account, however, the minimum wage increased in real terms in only six member states. If current inflation trends continue, minimum wages will barely grow at all in real terms in any country in 2022.

The Dublin-based EU research institute also says that the proposed EU directive on adequate minimum wages is already prompting a few Member States to refocus debates on the topic and prepare for change in areas such as setting the criteria for wage setting or raising wages in line with the 'international reference values' mentioned in the proposal. Germany, for example, has decided to uprate its minimum wage to €12 per hour, or about 60% of median wages, in October 2022.

However, Eurofound finds that substantial debates among national actors on how to promote collective bargaining and increase bargaining coverage are taking place in only Denmark, Latvia, and Norway.

## UK: EAT rules on unilateral employer bargaining offers

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**[David Hopper](#) of Lewis Silkin LLP writes:** In the first reported application of the Supreme Court's landmark Kostal decision, the Employment Appeal Tribunal has ruled that an employer could not unilaterally declare that its negotiations with its recognised trade union had finished. As unionised employers may only make direct offers to employees after exhausting their collective bargaining procedure, the employer now faces punitive fines.

*You can read our detailed comment on the decision [here](#)*

## EU: Transposition deadline looms for two key Directives

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EU Member States have until 2 August 2022 to implement the EU Work-Life Balance for Parents and Carers Directive, but many have not completed the process, and some have not yet started. The same holds true for Transparent and Predictable Working Conditions Directive, due to become national law on August 1. Two quick-view maps from Ius Laboris show the status of implementation of both Directives across EU jurisdictions, plus some others

that are not in the EU, but geographically close by. They can be found at these links:

- <https://iuslaboris.com/insights/implementing-the-work-life-balance-directive-across-europe/>

- <https://iuslaboris.com/insights/implementing-the-transparent-and-predictable-working-conditions-directive-across-europe/>

## Brexit: Britons are not EU citizens says court

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The Court of Justice of the European Union (CJEU) has confirmed that Brexit really does mean that Britons are no longer EU citizens. Britons lost EU citizenship when the UK left the EU, on 1st February 2020. It is the first time the CJEU has ruled on the matter, after a number of legal cases challenged this specific Brexit outcome. The decision also sets a precedent should other countries decide to leave the bloc in the future.

The Court of Justice decided on a case brought by a British woman living in France. Before Brexit, she could vote and stand as a candidate in her town of residence. But after the UK withdrawal from the EU, she was removed from the electoral roll and excluded from the municipal elections that took place in March 2020, during the transition period. As the mayor refused her appeal to restore the registration, she took the case to a regional court which agreed to request an interpretation from the CJEU.

The court ruled that the “possession of the nationality of a member state is an essential condition for a person to be able to acquire and retain the status of citizen of the Union and to benefit fully from the rights attaching to that status.” The court therefore confirmed that British nationals automatically lost their EU citizenship as a result of Brexit.

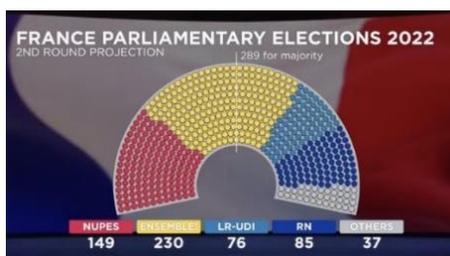
Looked at from a wider perspective, the CJEU ruling makes it clear that UK citizens do not have any “lingering” rights from the time the UK was an EU member state. This means that UK employees have no rights to be represented on EWCs and further confirms the EU Commission’s view that EWCs cannot be based in the UK. However, the latter contention is being challenged by some EWCs and their UK-based experts. The matter will come before the Employment Appeals Tribunal later this year in the case of *EasyJet*. Meanwhile, the *Guardian* reports that

*Britain’s cost of living crisis is being made worse by Brexit dragging down the country’s growth potential and costing workers hundreds of pounds a year in lost pay, [new research claims](#).*

*The Resolution Foundation thinktank and academics from the London School of [Economics](#) said the average worker in Britain was now on course to suffer more than £470 in lost pay each year by 2030 after rising living costs are taken into account, compared with a remain vote in 2016.*

## France: Assembly election results sow political confusion

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Future government policy in France was thrown into a state of confusions by the failure of parties supporting President Macron to win an overall majority in the second round of last Sunday’s legislative elections.

While a Macron-supporting coalition won the most seats, it fell short of an outright majority by around 40. Macron and his prime minister, Elisabeth Borne, will now have to negotiate with other parties to see if a majority to support the government’s agenda can be cobbled together.

Most at risk is Macron's plan to push the retirement age from 62 to 65. Last week, the reformist union federation, CFDT, decided to oppose the move. In the past, the CFDT could generally be relied upon to negotiate on proposed labour law reforms. Now whatever government emerges is likely to face solid union opposition to pension reform.

The unions may also push for legislative changes to the so-called "Macron Grid", the matrix which determines how much compensation dismissed workers can claim. The Grid was recently endorsed by the Cour de Cassation, France's top social court, which seemed to put an end to the matter.

But last week, the European Committee of Social Rights, part of the Council of Europe, not to be confused with the European Union, said that the Grid runs counter to France's international commitments and contravene the principle of 'the right to adequate compensation or other relief in cases of unfair dismissal.' The opinion will embolden unions to push the incoming Assembly to look afresh at the Grid.

However, as Joël Grangé of Flichy Grangé told us:

*...the decision from the European Committee of Social Rights has no direct nor, most probably, indirect effect in French law, since the French Supreme Court Social Chamber (Chambre sociale de la Cour de cassation) judged on May 11 that the European Charter of Social Rights has no direct effect in disputes between individuals.*

*As a result of this decision, the Charter cannot be invoked in French private law disputes, but it also reduces the authority of the decisions of the European Committee of Social Rights, which were already not binding and whose interpretation of the Charter should count/weigh even less in the future.*

*Therefore, the scope of the decision concerns only the State invited to take it into consideration, which is, in addition, not obliged to do so.*

## EU/UK data transfers: UK plans raise doubts over data adequacy status

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**Derek Mooney writes:** Last week the UK government published its much [awaited proposals](#) on data protection, these will underpin the forthcoming [Data Reform Bill](#). Launching the documents, the British Secretary of State for Digital, Culture, Media and Sport, Nadine Dorries, MP said:



*"Our new Data Reform Bill will make it easier for businesses and researchers to unlock the power of data to grow the economy and improve society, but retains our global gold standard for data protection..."*

*Outside of the EU we can ensure people can control their personal data, while preventing businesses, researchers, and civil society from being held back by a lack of clarity and cumbersome EU legislation."*

Others were not so enthusiastic. The Open Rights Group, in particular, was excoriating, describing the proposals as an attempt to gut the UK General Data Protection Regulation. They accused the UK government of:

*"proposing to bonfire your rights and remove the protections the law affords to your private life, vulnerabilities, and aspirations."*

Adding that

*“...the Information Commissioner’s Office (the Regulator) would be co-opted by the same Government they should keep an eye on.”*



*The reality probably lies somewhere between these two very partial interpretations, but while BEERG will not be attempting a root and branch analysis of what the UK government is planning to do, it certainly appears from the Secretary of State’s remarks that the U.K. government is putting its EU data adequacy status in peril and that BEERG members should start planning now for future issues with EU/UK data transfers.*

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# THE BEERG AGENDA:

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

## *Executive Training: Fundamentals of Global Labor Relations*

Webinar: June 28 - 30

This online course of three sessions, over three days, explores the strategic mindset and thought process of a successful global labor relations executive. This course is not an introduction to labor relations principles, it is **designed for senior global labor relations executives** and examines the strategic awareness needed to lead global labor relations.

[Book June Webinar](#)

## BEERG Members' Network Meeting

Pullman Hotel, Gare du Midi Brussels Sept 28/29

Attendance at the September BEERG Network Meeting in Brussels is open to BEERG members, HR Policy Global members. Click link on right to book a place at the meeting. A draft agenda with details and accommodation booking form will be available in July.

[Book Sept Meeting](#)

## *BEERG Training: Managing European Employee Relations*

Hotel Estela Sitges: Oct 18-21

Over the past fifteen years, hundreds of executives have participated in our twice yearly BEERG training programs. We have radically restructured our program to include a twin track component offering participants a tailored choice of modules. Download the training brochure and draft course schedule [ONLINE HERE](#).

[Book Oct Training](#)

\*BEERG/HR Policy Global Members can self-register online for these events via the links supplied. Members who get the "No Tickets Available for Purchase" message online should contact [Derek](#).

## BEERG Dates for your Diary:

Date	Event	Booking Links	Venue
June 28 – 30	<b>BEERG Training: Fundamentals of Global Labor Relations: A Training Program for HR Executives</b>	<a href="#">Book June Webinar</a>	Webinar on Zoom
Sept 28/29	<b>BEERG Members' Network Meeting</b>	<a href="#">Book Sept Meeting</a>	Hotel Pullman, Gare du Midi, Place Victor Horta 1, 1060 Brussels
Oct 18 - 21	<b>BEERG Training: "Managing European Employee Relations"</b>	<a href="#">Book Oct Training</a>	Hotel Estela, Port d'Aiguadolc, Sitges, Barcelona, Spain