

MINIMUM RATE OF PAY MUST BE AS PER THE LAW OF THE HOST COUNTRY

We wish to draw your attention to a judgement of the Court of Justice of the European Union ("ECJ") dated 12 February 2015 in case C-396/13. It is relevant for employers who post their workers to other EU countries. ECJ held that the minimum rates of pay for such workers are governed by the law of the country to which they are posted ("host country").

This particular case involved a Polish company which posted workers to its branch in Finland.

The workers claimed that Finnish law is better in terms of their minimum wages than Polish law and their Polish contracts of employment. A Finnish trade union brought the matter to a local court on behalf of the workers, demanding that the Polish employer pay overdue wages with interest. The Finnish court referred the matter to ECJ for a preliminary ruling that would interpret the applicable provisions of EU law on the posting of workers.

In its verbal reasons for the judgement, ECJ held that:

- the minimum rates of pay for workers posted from Poland are governed by the law and practice of Finland as the host country, regardless of the fact that their employment contracts are with a Polish company and that Polish law was chosen in those contracts as the applicable law;
- the workers could assign their claims arising from the employment relationship with their Polish employer to the Finnish trade union even though such assignment is forbidden by Polish law;
- the Finnish trade union was authorised to represent the Polish workers in court.

Given this case, Polish employers posting their workers to other EU countries should make sure the terms of their employment are not worse than those provided for by the national regulations of the host countries.

If this issue pertains to your business and you are interested in our assistance, please contact your WTS&SAJA consultant or our office.

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