

To the
UFE Member Associations

Berlin, 14. July 2010 ./fi

Information No. 6/2010

- 1. 45th Congress of UFE in Lisbon from 20th – 24th September 2010**
- 2. Overview over the various austerity measures at the European level (see Information 5/2010)**
- 3. Judgement of the Federal Court of Justice on the penalisation in case of tax evasion**
- 4. Message of sympathy to the finance trade unions in Europe**

Dear colleagues!

- 1. 45th Congress of UFE in Lisbon from 20th – 24th September 2010**

According to your feedback, we have undertaken the bookings of the hotel and the capacities for the event. Unfortunately, despite several requests for feedback, the responses of 3 member unions are still pending. These have been contacted again separately.

In consultation with the organiser in Portugal, our colleague Helder Ferreira (STI), we have to set a last deadline until 15th July 2010 for organisational reasons.

We therefore have to request you to undertake any registrations or changes to registrations

until 15th July 2010, at the latest (receipt by us).

Any feedback at a later point in time unfortunately cannot be considered anymore.

We would like to take the opportunity for a small request: please send your national flag via e-mail in the DIN A4 format to our colleague Helder Ferreira at sti_hferreira@netcabo.pt.

The shipment of the comprehensive conference documents for the Customs and Tax Commission of UFE as well as the Committee Congress has been planned for mid-August 2010.

2. Overview over the various austerity measures at the European level (see Information 5/2010)

The English version of the questionnaire sent by our colleague Fernand Muller from Luxemburg for the preparation of a global overview over the various austerity measures at the European level had inadvertently not been included in Information 5/2010. We have included it into this Information. Please return your

responses until 31st July 2010.

3. Judgement of the Federal Court of Justice on the penalisation in case of tax evasion

The participants in the Session of the Tax Commission in Paris on 24th June 2010 had requested to transmit the judgement of the German Federal Court of Justice on the penalisation in case of tax evasion. The judgement has been included in the Annex.

4. Message of sympathy to the finance trade unions in Europe

Please find enclosed in the Annex a message of sympathy of UFE to the colleagues of the European finance trade unions.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'R. Zender', is centered below the text 'Yours sincerely,'.

R. Zender
UFE General Secretary

English

Dear colleagues,

In addition to the questions for Lisbon in September, and in particular to obtain a global overview over the various austerity measures at the European level, I suggest the Presiding Board of UFE to ask the member unions, whether it was possible to provide the following details:

In your country, to what amounts:

the sum of cuts in the expenditure budget (of which e.g. civil servants' salaries)?

the sum of increases in the revenue budget (of which e.g. tax and value added tax increases)?

To what amounts the running state budget (in order to determine the percentage rate of the austerity measures in connection with the overall budget)?

Percentage rate 2010?

Percentage rate 2011?

Percentage rate 2012?

Example:

For Luxembourg, the austerity measures amount to 400 million Euros for each year from 2011 to 2014.

The running state budget amounts to 10 billion Euros.

Percentage rate 2011: $400,000,000 / 10,000,000,000 = 4 \%$

In my opinion, the planned measures are growth-inhibiting, exaggerated, and often unilaterally directed against public services.

Yours sincerely

Fernand Muller

SCC

Tel.: 00352/40 800 5500

fernand.muller@co.etat.lu

Deutsch

Liebe Kollegen,

Ergänzend zu den Fragen für September in Lissabon und besonders um eine globale Übersicht der verschiedenen Sparmassnahmen auf europäischer Ebene zu erlangen, schlage ich dem Präsidium der UFE vor, die Mitgliedgewerkschaften zu fragen, ob sie folgende Einzelheiten mitteilen könnten:

Auf wie viel belaufen sich in ihrem Land:

Die Summe der Kürzungen des Ausgabenhaushaltes (davon z.B. Beamtengehälter) ?

Die Summe der Erhöhungen des Einnahmehaushaltes (davon z.B. Steuer - und Mehrwertsteuererhöhungen) ?

Wie hoch ist der laufende Staatshaushalt, (um den Prozentsatz der Sparmassnahmen in Verbindung mit dem Gesamthaushalt zu ermitteln) ?

Prozentsatz 2010 ?

Prozentsatz 2011 ?

Prozentsatz 2012 ?

Beispiel:

Für Luxemburg belaufen sich die Sparmassnahmen auf 400 Millionen Euro für jedes Jahr von 2011 bis 2014

Der laufende Staatshaushalt beläuft sich auf 10 Milliarden Euro

Prozentsatz 2011: $400\ 000\ 000 / 10\ 000\ 000\ 000 = 4\ %$

Meiner Meinung nach sind die geplanten Maßnahmen wachstumshemmend, übertrieben und oft einseitig gegen den öffentlichen Dienst gerichtet

Mit freundlichen Grüßen

Fernand Muller

SCC

Tél.: 40 800 5500

fernand.muller@co.etat.lu

Français

Chers collègues,

Afin de compléter les questions pour septembre à Lisbonne, mais surtout pour obtenir une vue globale des économies budgétaires au niveau européen, je propose au présidium de l'UFE, de demander à tous les syndicats fiscaux affiliés, de bien vouloir communiquer les détails suivants:

Dans votre pays à combien s'élèvent:

Le total des réductions de dépenses budgétaires (dont p.ex. traitements des fonctionnaires) ?
Le total des augmentations de recettes budgétaires (dont p.ex. augmentations d'impôts et de TVA) ?

Quel est le total du budget courant de l'Etat (pour déterminer le pourcentage des économies budgétaires par rapport au total du budget annuel) ?

Pourcentage 2010 ?

Pourcentage 2011 ?

Pourcentage 2012 ?

Exemple:

Pour le Luxembourg les réductions de dépenses budgétaires s'élèvent à 400 millions d'Euros pour chaque année de 2011 à 2014

Le total du budget courant de l'Etat luxembourgeois s'élève à 10 milliards d'Euros

Pourcentage 2011: $400\,000\,000 / 10\,000\,000\,000 = 4\%$

À mon avis les mesures envisagées pèsent sur la croissance, sont exagérées et souvent focalisées sur la fonction publique

Salutations collégiales

Fernand Muller

SCC

Tél.: 40 800 5500

fernand.muller@co.etat.lu

German Federal Court of Justice

Notification of the Press Office

No. 221/2008

Landmark decision about penalties for tax evasion

Landshut Regional Court had sentenced the accused, who operated a building company as a subcontractor, with the judgement of 21st April 2008 for tax evasion and evasion of social security contributions, among other things, to a total term of imprisonment of one year and eleven months without parole. The accused had appealed against that, and in particular reprimanded the penalisation.

The conviction is based on the fact that the accused employed his employees illegally and therefore neither paid taxes on wages nor social security contributions. He also did not submit any turnover tax declarations. In addition, he supported the evasion of VAT of his clients by the provision of fictitious invoices, so that these were able to state the payments made to the accused as operating expenses and claim an input tax deduction. The tax damages effected therewith and the withheld social security contributions respectively amounted to a total of almost 1 million €.

The German Federal Court of Justice (BGH) rejected the appeal of the accused, and in that made fundamental statements on two issues:

For tax evasion, the amount evaded is a penalisation circumstance of material significance. The tax damages therefore decisively determine the amount of penalty. In that, the legal requirements of § 370 Sect. 3 Sentence 2 No. 1 AO (German Tax Code) are of indicative significance, according to which in case of “large-scale” evasion normally only imprisonment, namely from six months up to ten years, is threatened. The BGH stated that large-scale evasion – as already decided on the same characteristic in case of fraud – is present, when the tax damages amount to more than 50,000.00 €. This means that in any case, for a six-digit amount of evasion, the imposition of a fine will only be appropriate to the crime upon presence of important extenuation causes. For amounts evaded in the millions, imprisonment with parole shall only be considered upon presence of particularly important extenuation causes. For the latter circumstance (amount in the millions), a settlement in summary proceedings without a trial will also not seem appropriate on a regular basis, since here only imprisonment of up to one year, the enforcement of which is suspended, can be imposed.

The calculation of the amount of social security contributions evaded according to § 266a StGB (German Penal Code) for illegal employment is based on the new legal requirement in § 14 Sect. 2 Sentence 2 SGB IV (Social Security Code Book IV). Accordingly – for the calculation of the social security contributions – the payment of the illegal wages is no longer considered as a gross wage agreement as previously, but as a net wage agreement, with the consequence that the wage paid has to be projected onto a gross wage. This results in the consequence that the amount evaded is higher than upon the assumption of a gross wage agreement.

§ 370 Tax Code

(1) Sentenced to imprisonment of up to five years or a fine are those, who

1. provide the revenue authorities or other authorities with incorrect or incomplete information about substantial facts in terms of taxes,

2. contrary to duty, withhold information from the revenue authorities about substantial facts in terms of taxes, or

3. contrary to duty, omit the use of fiscal markings or tax stamps,

and thus cut taxes and gain unjustified tax advantages for themselves and others.

(2) The attempt is punishable.

(3)1 In particularly serious cases, the penalty shall be imprisonment from six months to up to ten years. 2 A particularly serious case is normally present, if the offender

1. cuts taxes or gains unjustified tax advantages to a large extent,

2. ...

§ 14 Sect. 2 Social Security Code Book IV

(1) ...

(2) If a net wage has been agreed, the income of the employee, including the taxes imposed thereon and the contributions to social security and employment promotion corresponding to his legal share are considered as the wage. If for illegal employments, taxes and contributions for social security and employment promotion have not been paid, a net wage shall be considered as agreed.

(3) ...

Judgement of 2nd December 2008 – 1 StR 416/08

Landshut Regional Court – Decision of 21st April 2008 – 3 KLS 54 Js 18017/06

Karlsruhe, 2nd December 2008

Pressestelle des Bundesgerichtshofs
(Press Office of the German Federal Court of Justice)

76125 Karlsruhe

Telephone +49 (0)721 159-5013

Telefax +49 (0)721 159-5501



Union des Finanzpersonals
in Europa

The Union of Finance Personnel in Europe (UFE) expresses its sympathy with the protest rallies and strikes of the employees of the European tax and customs administrations.

The attempt of European states to counteract the financial crisis with savings in public services has to be vigorously rejected.

Instead of holding the culprits of the financial crisis liable by means of bank duty and financial transaction tax, the employees of public services and the citizens are punished.

This is not only a flagrant affront against social justice, but also an intervention into the functionality of the state. Since control authorities like revenue offices and customs have already been chronically understaffed, the national budgets are losing billions of Euros in revenues each year, which they are entitled to by law. A further restriction of the functionality of public services by staff cuts and insufficient working conditions is neither politically nor socially acceptable.

UFE therefore supports the justified protest measures of the colleagues all over Europe.