

Austria

Employers obligation to support redundant employees

Phase	Labour Constitution Act (ArbVG)
Native name	Arbeitsverfassungsgesetz (ArbVG)
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

97, 109

Description

If planned changes in business operations (that is, reducing or shutting down company activities, relocation, merger, change of the purpose of the organisation, of existing infrastructure or of the work organisation, introduction of new work methods, rationalisation or automatisisation measures of considerable importance, change of the legal form or ownership structures, planned collective dismissals) bring about negative consequences (understood as reduction of the income, longer commuting obligations and job loss) for all or a considerable number of employees in companies continuously employing at least 20 staff members, a social plan can be agreed to avoid, reduce or remove the negative consequences for the employees (The social plan (or other measures) is not mandatory. The social plan is part of a works agreement (Betriebsvereinbarung, ArbVG §97) between the employer and the works council). If these changes result in dismissals, the social plan should particularly consider the interests of older workers.

Content of the social plan may include:

- voluntary severance payments;
- financial interim aid;
- reimbursement of costs for education, training or job interviews;

- continued use of company flats;
- preferred reemployment; and,
- establishment of an outplacement foundation.

If the parties fail to agree on a social plan, the works council may refer the case to a public mediation and arbitration board (local labour and social court) consisting of a professional judge, two representatives of the company to be nominated by the employer and the works council and two other members from a list of people nominated to such boards. The board has to decide as quickly as possible, taking into account the interests of the company as well as of the employees. The decision of the board is binding and has to be implemented.

Commentary

Regarding the understanding of a 'considerable number of employees' in relation to the necessity to establish a social plan, the court decided that 8% of the staff is not a sufficiently high share of employees affected.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Works council Other
Involvement (others)	Public mediation and arbitration board
Thresholds	Affected employees: 5 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation



Restructuring legislation database

Eurofound (2015), Austria: Employers obligation to support redundant employees,
Restructuring legislation database, Dublin

Belgium

Employers obligation to support redundant employees

Phase	Law 23 December 2005 with regard to inter-generational solidarity pact; Collective agreement n°82 of 10 July 2002 on the redeployment of dismissed workers aged 45 and older; Collective agreement nr. 82 bis of 17 July 2007 changing collective agreement 82
Native name	Loi 23 decembre 2005 relative au Pacte de solidarité entre les generations/Wet betreffende het generatiepact; Wet van 23 december 2005 tot de verbetering van de werkgelegenheidsgraad van de werknemers; Convention collective de travail n° 82 du 10 juillet 2002 relative au droit au reclassement professionnel pour les travailleurs de quarante-cinq ans et plus qui sont licenciés/Collectieve arbeidsovereenkomst nr. 82 van 10 juli 2002 betreffende het recht op outplacement voor werknemers van 45 jaar en ouder die worden ontslagen; Collectieve arbeidsovereenkomst nr. 82 bis van 17 juli 2007 tot wijziging van CAO 82
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

Law 23 December 2005: 31-41; Collective agreement of 10 July 2002: 1-13 Koninklijk besluit tot wijziging van het koninklijk besluit van 21 oktober 2007 tot uitvoering van artikel 13, § 3, 2°, van de wet van 5 september 2001 tot de verbetering van de werkgelegenheidsgraad van de werknemers en tot bepaling van de datum van inwerkingtreding van artikelen 7 en 9 van de wet van 17 mei 2007 houdende uitvoering van het interprofessioneel akkoord voor de periode 2007-2008

Description

The Belgian law differentiates between companies with fewer and more than 20 workers regarding collective dismissals (within 60 days, at least 10 dismissals in companies with 20-99 employees, at least 10% in companies with 100-299 employees or at least 30 dismissals in companies with 300 or more employees).

The measure described in the legislation is compulsory for companies with 20 or more workers, while the scheme is voluntary for those that employ fewer employees.

Companies which employ at least 20 workers (except those with an interim contract or those that have reached pension age) are obliged to contribute to a special reemployment unit or a regional reemployment unit of a 'econversion cell' type, so-called 'outplacement units'.

The outplacement is a set of services and advice provided on behalf of the employer for the benefit of the workers to help them find a new job with another employer as quickly as possible or to become self-employed. These services are provided by an outplacement office that is specialised in the outplacement of employees.

Moreover, companies which employ at least 20 workers are obliged to pay a reclassification allowance, for a period of three months for workers younger than 45 years or for six months for those aged over 45 years. For workers aged 45 or older, additional mandatory regulations are in place, following CA 82bis. For instance, beyond the mandatory severance pay, the social plan that is agreed upon should include measures such as early retirement plans, supplements to social security benefits, conditions to guarantee the employment security for those employees who remain in service and outplacement services. All dismissed workers have access to accompanying advice, guidance and training measures that take account of their skills and experience and the jobs they could potentially do. The measures include organising job interviews with potential new employees, preparation for the interviews and training to extend or update skills. These services are usually paid by the employer. In some cases, the joint committees composed by sectoral social partners may decide to support outplacement costs through sectoral social/training funds. The regional public employment offices and/or private companies specialised in outplacement services are responsible for providing the services throughout the process.

On 1 December 2018, the list of older workers who should not be available for the labour market under the specific outplacement scheme was updated. For these workers, the employer is exempted from offering outplacement.

Commentary

Outplacement units are central to the management of restructuring. This concept of active management, established by the Generation Pact, reflects the need to better manage restructuring by helping laid-off workers to remain in the labour market.

The issue of outplacement units related to collective dismissal is often discussed in relation to the issue of keeping older workers at work, as confirmed by many researches that have been published on this topic.

Additional metadata

Cost covered by	Employer National government
Involved actors other than national government	Public employment service Other
Involvement (others)	Sectoral funds, private companies officially recognised to conduct the outplacement services
Thresholds	Affected employees: 10 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Belgium: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Belgium

Employers obligation to support redundant employees

Phase	Royal decree of 9 March 2006 regarding active management of restructuring
Native name	9 maart 2006 Koninklijk besluit betreffende het activerend beleid bij herstructureringen/9 mars 2006 Arrêté royal relatif à la gestion active des restructurations
Type	Employers obligation to support redundant employees
Added to database	24 May 2017
Access online	Click here to access online

Article

5-8 Programmawet van 26 december 2022 (BS. 30 december 2022) Koninklijk Besluit van 15 januari 2023 tot wijziging van het Koninklijk Besluit van 9 maart 2006 betreffende het activerend beleid bij herstructureringen (BS 31 januari 2023)

Description

The royal decree of 9 March 2006 introduced the system of 'reconversion cells'. The goal of the cell is to aid employees dismissed because of restructuring in finding a new job. The employee receives coaching by third party providers that can vary from administrative information to psychological counselling. The cells are organised separately for the Flemish, Walloon, Brussels and German speaking regions. Several permanent cells are active, there is a possibility to create a new one specifically for the restructuring company.

The employer is responsible for providing the employees with a reconversion cell. Originally, the measure was intended to be used in case of restructuring within a company that wanted to apply the lowered retirement age system but since 2009, all companies with more than 20 employees are obliged to start or participate in a cell from the moment collective dismissals are announced.

All employees that are being dismissed in the context of collective dismissals are obliged to sign up for the reconversion cell, with exception of those older than 58 or have worked for more than 38 years. If they refuse to do so they will be penalised by having their unemployment benefits reduced.

The minimum duration of the programme depends on the age of the employee:

- Employees of the company in restructuring that are older than 45 have to participate in the reconversion cell for at least six months; and
- Employees of the company in restructuring that are being dismissed and younger than 45 are obliged to participate for at least three months.

While the employees are enrolled in the cell, they have to accept each outplacement offer and participate in the programme. The costs of the outplacement accompaniment are for the (former) employer or the appropriate sectoral fund (if present). The employer has the possibility to recuperate some of the costs from the unemployment services.

The final goal of the cell is to provide each dismissed employee with at least one outplacement offer.

The programme law of 26 December 2022 and the Royal Decree of 15 January 2023 (amending the Royal Decree of 9 March 2006) abolish the reimbursement that was provided to the employer by the unemployment services consisting of the difference between the activation benefit and the statutory severance benefit.

Commentary

According to Federgon (a Belgian employers' federation) 16,267 outplacement accompaniments took place in 2020, which is a increase of 16,3% compared to 2019.

In 2021: 14302 outplacement accompaniments (source: Federgon). In 2022: 10683 outplacement accompaniments (source: Federgon).

Additional metadata

Cost covered by Companies

Involved actors other than national government Employer organisation Public employment service Trade union

Involvement (others) None

Thresholds Affected employees: No, applicable in all circumstances
Company size: 21
Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2017), Belgium: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Cyprus

Employers obligation to support redundant employees

Phase	Collective Dismissals Law, 2001 (Law 28(I)/2001)
Native name	N. 28(I)/2001 - Ο περί Ομαδικών Απολύσεων Νόμος του 2001
Type	Employers obligation to support redundant employees
Added to database	01 September 2015
Access online	Click here to access online

Article

Article 4.2 (b) of the Collective Dismissals Law, 2001 (Law 28(I)/2001)

Description

The Collective Dismissals Law obliges the employer who intends to proceed with collective dismissals (within 30 days, dismissals of at least 10 workers in companies with 21-99 employees, 10% in firms with 100-299 employees or at least 30 workers in firms with 300 or more staff) to consult in good time with the employees' representatives with a view to reaching an agreement. The employer must have completed the consultations with the employees' representatives before he/she notifies the relevant authority on the intention to proceed to collective dismissals, since he/she has to provide information to the relevant authority also on the outcome of these consultations (Article 6). Collective dismissals can take effect at the earliest 30 days after the relevant authority has been notified (Article 8).

Article 4.2 of the Collective Dismissals Law foresees that the above mentioned consultation shall cover, besides possible measures to prevent any collective redundancies or to reduce the number of the employees who would be affected, ways and means for easing the adverse consequences arising from such collective redundancies, through social measures, aiming - among others - at the reemployment or retraining of dismissed employees.

Commentary

The legislation is rarely activated in Cyprus, since the definition of collective dismissals requires the dismissal of at least 10 employees. However, during the economic and financial crisis, particularly in 2012 and 2013, an increased number of collective dismissals cases has been observed. The Labour Relations Department has reviewed more than 140 cases during these years.

According to trade unions' evaluation this particular provision is more likely to be applied in organised companies, i.e. in companies where trade unions are present, demand and ensure that the legislation is respected.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Trade union
Involvement (others)	None
Thresholds	Affected employees: 10 Company size: 21 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Cyprus: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

France

Employers obligation to support redundant employees

Phase	Labour Code Amendment n ° 5 of January 8, 2020 to the Agreement of January 26, 2015 relating to the professional employment security contract
Native name	Code du travail Avenant n°5 du 8 janvier 2020 à la Convention du 26 janvier 2015 relative au contrat de sécurisation professionnelle
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

Employment protection plan (plan de sauvegarde de l'emploi, PSE): L. 1233-61 to L. 1233-64, Professional employability agreement (contrat de sécurisation professionnelle, CSP): L. 1233-65 to L.1233-70; Redeployment leave (congé de reclassement): L. 1233-71 to L.1233-76, R. 1233-17 to R.1233-21; R. 1233-22 to R. 1233-36

Description

Employment protection plan

According to article L. 1233-61 through L. 1233-64, an employer needs to first inform and consult with employee representatives and to then draft a Employment protection plan (Plan de sauvegarde de l'emploi). The latter can be either negotiated as a company-level agreement with trade unions or unilaterally drafted with the information and consultation of employee representatives throughout the restructuring process.

The plan aims at avoiding forced dismissals and/or at reducing their numbers to a minimum. It has to include measures like internal mobility, creation of new activities by the company, external redeployment with a support scheme to help employees for business

start-ups or business acquisitions, training, validation of professional experience, implementation of redeployment leave (congé de reclassement), access to the publicly-funded professional employability agreement (Contract de Sécurisation Professionnelle) that combines unemployment benefits with training and individual coaching, and measures aiming at working time reduction.

In both cases, where deemed necessary, the works council may call in an outside expert of its choice, at the employer's expense, to gather advise on collective redundancies involving 10 employees or more. The law defines the role of the expert with some details in articles L. 1233-34 and L. 1233-35.

According to article L. 1233-46, the employer needs to inform the labour inspectorate of its Job-saving plan at most the day following the first information meeting with employee representatives. Pursuant to article L. 1233-57, the labour inspectorate assesses the compliance with the information and consultation requirements and suggests improvements to the employment security plan, where needed. The labour inspectorate needs to approve the Job-saving plan for the latter to be considered valid.

The works council may propose alternative measures to the restructuring process. In this case, the employer is obliged to provide the works council with a detailed reply on the reasons to choose their restructuring plan over the one suggested by employee representatives.

Professional employability agreement(contrat de sécurisation professionnelle, CSP)

If the company does not meet the criteria to provide for reemployment leave (see below), a Professional employability agreement has to be put in place entitling employees to personalised redeployment services (for example, skills assessment, retraining or support for business creation/takeover) provided by the French public employment agency for up to 12 months. During this period they receive an allowance, amounting to 75% of their basic daily wage. If at the end of the 12-month period the employees are still seeking durable employment, they will be entitled to unemployment indemnities (Allocation d'Aide au Retour à l'Emploi - ARE allocations). If employers fail to offer this redeployment scheme to all employees who are about to be dismissed for economic reasons, they are liable to pay to the public employment agency a specific contribution corresponding to 2 months of gross salary or 3 months of gross salary if the employee agrees to avail of the CSP offered directly by the public employment agency. Furthermore, if the company is facing serious difficulties (for instance bankruptcy), the government may intervene via the national employment fund aiming at workers' redeployment.

Redeployment leave (congé de reclassement)

An employer with more than 1,000 employees planning to announce redundancies is obliged to offer each affected employee a redeployment leave to avail of redeployment, retraining and reskilling opportunities or a job search programme. These services are provided by a re-employment unit ('cellule d'accompagnement'), which is generally staffed by external consultants and trained professionals. The redeployment leave runs at the same time as the notice period, and it lasts a minimum of 4 months and a maximum of 12 months (the period previously being between 4-9 months). For the duration of the notice period, the employee receives full pay, without being expected to fulfil their contractual duties. This reemployment leave is to be taken during the notice period and employees continue to receive remuneration. The law allows the suspension of the reemployment leave so that the employee can work for short periods under fixed-term or temporary contracts. In case the redeployment leave exceeds the contractual notice period, the employee receives an allowance of 65% of the last average gross wage based on the last 12 months' remuneration, or 85% of the index-linked minimum growth wage. The employer does not pay social contributions on this amount as it is not considered a salary; however, some social charges are to be paid, namely the Contribution Sociale Généralisée or CSG (0.5%) and the Contribution au Remboursement de la Dette Sociale or CRDS (6.2%). Furthermore, the State supports 50% of the allowance during the first 10 months.

Commentary

Employment protection plan

According to DARES (2023), in the 1st quarter of 2023, over one year, the number of validated and/or approved Employment protection plan (PSE) rose (+22%), as did the number of employees involved (+92%). The number of PSE initiated rose by 55% over the quarter, to 119 procedures, and by 70% over one year. The number of collective redundancy procedures excluding PSEs rose by 61% year-on-year. Redundancy procedures involving fewer than 10 employees, as well as those involving 10 or more employees in companies with fewer than 50 employees, increased (respectively +57% and +117% over one year).

Professional employability agreement (contrat de sécurisation professionnelle, CSP)

According to DARES 2023, as a result of the upturn in economic activity in 2021, the number of new entrants to the public employment service (Pôle emploi) following redundancies will fall compared with 2020 (-23%) and even 2019 (-9% in two years), to 11,8900. This is the lowest level since statistics began to be tracked in 2000. Registrations fall particularly sharply in the 1st quarter of 2021 (-18%), with declines averaging 10% over the following three quarters. The decline is even more marked for entries under a Contrat de Sécurisation Professionnelle (CSP). Over 2021 as a whole, they will fall by 28% compared

to 2020, to 57,400; their share of new entrants to Pôle emploi following economic redundancy will fall accordingly. accordingly.

In the 4th quarter of 2022, the number of people joining Pôle emploi following redundancy reached 31,500. An increase of 17% over the quarter, following a drop of 4% in the previous quarter and an increase of 5% in Q3 2022. The increase in the 4th quarter of 2022 was driven more by new entrants under the Professional Security Contract (Contrat de Sécurisation Professionnelle - CSP) (+31%) than by new entrants following redundancies excluding the CSP (+3%). Over one year, the number of people joining Pôle emploi following redundancy rose by 26%.

Additional metadata

Cost covered by	Employer National government
Involved actors other than national government	Employer organisation Public employment service Trade union
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), France: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Germany

Employers obligation to support redundant employees

Phase	Works Constitution Act
Native name	Betriebsverfassungsgesetz
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

112: Reconciliation of interests in the case of alterations; social compensation plan 112a: Enforceable social compensation plan in the event of staff cutbacks, establishment of new businesses 113 Indemnities

Description

If an alteration to the business is proposed, the employer must agree with the works council on a social compensation plan (Sozialplan) to compensate those employees dismissed as a result of collective redundancies (dismissal of at least 6 employees in companies with 21-59 workers, at least 10% (or 26) in companies with 60-499 workers, or at least 30 dismissals in larger firms) as well as those employees that remain behind and are affected by the alterations to the business. Following a ruling by the Federal Labour Court from 2015, the social plan shall in particular cover workers at risk of unemployment and pay, for example, for the transfer to a training agency and for the training costs. To-be-dismissed civil servants working in a privatised company are not eligible because they have a guarantee of reemployment.

The contents of the social plan will be negotiated with regard to the information and proposals set out in a balance-of-interests agreement (Interessenausgleich).

The provisions under the social plan are enforceable by law.

If a social plan cannot be agreed upon, the employer or the works council may turn to the Federal Employment Agency (Bundesagentur für Arbeit) for mediation and a mediation committee will be set up. The committee comprises a representative from the employer and one from the works council side and is typically chaired by a judge of a local or regional labour court. This committee will draw up a social plan if the employer and works council fail to reach an agreement taking into account the social well-being of the affected employees as well as the financial situation of the employer. In case the committee's decision unilaterally follows the employer's propositions, a complaint can be filed with the labour court and the decision can be ruled unlawful.

The employees shall be offered financial compensation for weathering economic disadvantages, such as reductions in income or allowances. Compensation shall also be proportionate to their prospects of finding alternative employment.

A social plan is not mandatory during the first four years of a newly founded company (other than those formed by the reorganisation of existing firms or groups).

Commentary

A social plan usually includes termination payments for which there is no legal minimum or maximum. Often, these are calculated on the following basis: length of service multiplied with monthly gross salary multiplied with a certain factor (ranging from 0.5-1.5, depending on the economic strength of the firm and often also taking into account the age of the employee). Apart from financial compensation, the social plan can also arrange for support in finding new employment by providing training or job transfer measures.

Online information on contents of agreed social plans is provided by the [Hans Böckler Foundation]

(https://www.boeckler.de/data/mbf_bvd_gr_interessenausgleich_sozialplan.pdf).

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Public employment service Works council
Involvement (others)	None

Thresholds

Affected employees: 21

Company size: 6

Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Germany: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Italy

Employers obligation to support redundant employees

Phase	Law 23 July 1991, no. 223, Rules on the Wage Guarantee Fund, redundancies, unemployment benefits, enforcement of European directives, job placement, and other labour market provisions
Native name	Legge 23 luglio 1991, n. 223, Norme in materia di cassa integrazione, mobilità, trattamenti di disoccupazione, attuazione di direttive della Comunità europea, avviamento al lavoro ed altre disposizioni in materia di mercato del lavoro
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

Law 23 July 1991, no. 223, art. 4 and 5. ; Legislative Decree of 8 April 2004, no. 110

Description

The rules on collective dismissals apply to companies and private employers staffed with more than 15 people. To fall within the scope of the legislation, the dismissals must involve at least five workers within a time span of 120 days. Legislative Decree of 8 April 2004, no. 110 enlarged the scope of Law no. 223/1991 to employers who are not entrepreneurs, also pursuant to judgement of the Court of Justice of the European Union (CJEU) C-32/02 of 16 October 2003.

There is no statutory obligation upon employers to support redundant workers, except for the reemployment obligation in case of new hirings.

Nevertheless, in the framework of collective dismissal procedures, the unions and the management might agree on entitlements for workers leaving the company. Those can

consist of incentives or benefits which are additional to those entailed by law or, more rarely, outplacement services. The latter might be provided with the support of regional governments as those have competencies over the setup and implementation of active labour market policies.

Commentary

As to collective agreements entailing the commitment of employers to support redundant workers, see [Intesa San Paolo](#) and [TirrenoPower](#) cases reported in the European Restructuring Monitor events database.

Additional metadata

Cost covered by	Employer National government
Involved actors other than national government	Public employment service Regional/local government Trade union
Involvement (others)	None
Thresholds	Affected employees: 5 Company size: 16 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Italy: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Luxembourg

Employers obligation to support redundant employees

Phase	Labour Code
Native name	Code du travail
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

Art.L.166-2 and Art.L.166-3

Description

In cases of dismissal of at least 7 employees within 30 days or at least 15 employees in 90 days, the employer has to negotiate a social plan with the employees' representatives including the staff committee (délégation du personnel) or the joint committee (comité mixte) and representative unions if the employer is bound to a collective labour market agreement.

In the framework of the law of 23 July 2015 reforming employee representation in companies ([Loi du 23 juillet 2015 portant réforme du dialogue social à l'intérieur des entreprises](#)) (EurWork, [Luxembourg: Reform of employee representation in companies](#), 15 December 2015), joint committees cease to exist after workplace elections which took place after 1 January 2016 (and at the latest after the work place election which were scheduled for 2019). As from these elections, the tasks and duties assigned to joint committees have been transferred to the staff delegations in companies which had at least 150 staff during the 12 months preceding the first day of the posting of the announcement of elections.

The aim is to negotiate in order to reach an agreement on the social plan in the framework of a detailed process. It differs from the job retention plan that may only be discussed (and

not negotiated) with employees' representatives to anticipate a redundancy scheme.

These negotiations must focus on the possibilities of avoiding or reducing the number of redundancies, but also reducing the consequences by means of internal redeployment within the company, retraining, reintegration into the job market and/or a more favourable financial compensation than established by law. Social plans often include measures which assist the redundant workers. Among the most commonly implemented measures are outplacement services providing guidance and advice to the employee on their professional and personal situation and support to find a new position and training or financial support for geographic mobility or business creation.

The negotiation process regarding social plans is the following:

- If negotiations are successful, the redundancy plan must be formalised in written form and at least contain the measures agreed upon regarding redeployment, retraining, reintegration and financial compensation, as well as all the parties' views with regard to these measures. After being signed by both parties, a copy of the redundancy plan must be sent to the the public employment agency (ADEM) which, in turn, sends a copy to the national Labour and mine inspectorate (ITM).
- If the negotiations fail, the social partners must consult ADEM which will inform ITM and the National Conciliation Office (Office national de conciliation, ONC) indicating the names and positions of the members (management and employees' representatives) who take part in the joint conciliation committee aiming to reach a common position.
- If the intervention of the ONC does not lead to the implementation of a redundancy plan, the employer may dismiss the chosen number of employees without a redundancy plan as soon as the non-conciliation report is submitted by following the terms and procedures applicable to individual dismissal, while respecting the minimum notice periods for collective redundancies.

When the redundancy plan is approved, the employer may begin to implement collective redundancies.

Commentary

In practice, according to interviews with social partners and lawyers, the objective to render void or to reduce the number of redundancies is rarely achieved and the social plan generally focuses on financial compensation.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Employer organisation Public employment service Trade union Works council Other
Involvement (others)	Conjuncture Committee (Comité de conjoncture); experts; Labour and mine inspectorate (ITM) ; National Conciliation Office (Office national de conciliation, ONC)
Thresholds	Affected employees: 7 Company size: 7 Additional information: There are two company eligibility thresholds: - 7 employees within 30 days - at least 15 employees in 90 days

Sources

Citation

Eurofound (2015), Luxembourg: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Netherlands

Employers obligation to support redundant employees

Phase	Civil code (transition payment); Royal decree on dismissals of 1 July 2016; Balanced labour market act of 1 January 2020
Native name	Burgerlijk Wetboek (transitievergoeding); Ontslagregeling UWV van 1 juli 2016; Wet Arbeidsmarkt in Balans (WAB) van 1 januari 2020
Type	Employers obligation to support redundant employees
Added to database	06 August 2015
Access online	Click here to access online

Article

Article 7:673 Civil code; article 9 Royal decree on dismissals of 1 July 2016; Article XII, XIII, XIV and XV of Balanced labour market act of 1 January 2020

Description

The regulation on employers obligation to support redundant employees is aimed at providing a safety network to employees who are affected by downsizing, layoffs or company closure. Employers must pay a transition compensation to employees that have been employed for a period of at least 24 months (2 years), this transition payment is a statutory severance payment.

The amount of transition compensation payment is calculated on the basis of the monthly salary and the duration of the employment contract:

- One third of the gross monthly salary per year of service for the first 10 years of service;
- Half of the monthly salary per year of service after the 10th year of service.

With the introduction of the Balanced labour market act on 1 January 2020, an employee is entitled to a transition payment from day one if the employment is terminated at the

initiative of the employer. An employee is also entitled to a transition payment if the employment contract ends or is not continued as a result of seriously culpable acts on the part of the employer. Such compensation has a maximum, since 01 January 2023, the cap is € 89,000 gross, and if the salary is higher than € 89,000 then the compensation is a maximum of one gross annual salary.

Moreover, following the termination of an employee's contract, the employer must produce a declaration of prior employment upon the employee's request. The statement must encompass the following:

- The nature of the work and contract number of hours per week
- Commencement and conclusion date of the employment contract
- A declaration regarding how the employee has fulfilled his/her obligations
- A statement on the manner of termination of the contract, including whether it has been initiated by the employer and the reason for such termination

If the employer has incurred training and education costs to foster the employability of the employee, these costs may be subtracted from the transition payment. Such training and education should aim to avoid unemployment in general (news skills favour hiring either in the firm of the employer or elsewhere) or reduce the duration of unemployment, or more generally to increase the employability of the employee. The cost of training specific to the current position of the employee cannot be subtracted. Although this is not an obligation, it is a stimulus for employers to provide sufficient trainings and education.

Training and education costs may only be subtracted from the transition payment by the employer if the option to follow that training is included in the employment contract. The cost deduction is also applicable if the trainings were prematurely terminated.

In the case of collective dismissal, the UWV (public employment service) needs to be informed by the [Collective redundancy \(notification\) act](#). The transition compensation payment is still applicable in this case.

Commentary

The impacts of the transition payment have been closely monitored since 2015 and, as pointed out above, have had several compensation arrangements for employers added to ease the burden on employers. It is important to note that the payment does not have to be spent on the actual transition to subsequent employment.

For the training or education to qualify for this arrangement, one of these three categories shall be met:

- A vocational training programme as referred to in article 7.2.2 of the Education and vocational training act (Wet educatie en beroepsonderwijs);
- A dual programme as referred to in article 7.7 of the Higher education and academic research act (Wet op het hoger onderwijs en wetenschappelijk onderzoek);
- A course that can only be followed if an employment contract has been entered into.

As of August 2021, there is no data available on the number of transition payments doled out each year. A change in the methodology of the wage tax administration, however, will facilitate the availability of these data at the Dutch Central Bureau for Statistics (CBS) in the coming years.

Details on the transition payment, including reasons why there is no entitlement to such a payment (pension age or culpability), can be found under ['Severance pay/redundancy compensation'](#).

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Public employment service
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Netherlands: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Norway

Employers obligation to support redundant employees

Phase	Working Environment Act
Native name	Arbeidsmiljøloven
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

15-2

Description

An employer contemplating collective redundancies (at least 10 dismissals within 30 days) shall at the earliest opportunity enter into consultations with the employees' elected representatives with a view to reaching an agreement to avoid collective redundancies or to reduce the number of persons made redundant. Employees' elected representatives may include all kind of representatives for the employees, and both those elected on the basis of collective agreements and statutory law. Both safety deputies and shop stewards can be consulted. The act does not state whom to consult if there are no such representatives.

If redundancies cannot be avoided, efforts shall be made to mitigate their adverse effects. The consultations shall cover possible social welfare measures aimed, inter alia, at providing support for redeploying or retraining workers made redundant.

If the employer is considering closing down its activities or an independent part of them and this will involve collective redundancies, the possibility of further operations shall be discussed in accordance with the Restructuring Act (omstillingslova), including the possibility of the activities being taken over by the employees.

Commentary

According to Norwegian legislation, the employer will have to pay wages until the end of the notice period. There is no obligation for the employer to give redundancy pay. However, it is not uncommon for the employer to offer such pay for a limited period.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Trade union
Involvement (others)	None
Thresholds	Affected employees: 10 Company size: 10 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Norway: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Poland

Employers obligation to support redundant employees

Phase	Act of 20.04.2004 on promoting employment and labour market institutions (consolidated text: Journal of Laws of 2008, no. 69, item 415) implemented 25.04.2008
Native name	Ustawa z dnia 20.04.2004 o promocji zatrudnienia i instytucjach rynku pracy (tekst jednolity: Dz.U. z 2008 r. Nr 69, poz 415) wdrożone 25.04.2008
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

70

Description

Monitored dismissals

An outplacement programme must be proposed by the employer if at least 50 employees within a period of three months are planned to be dismissed ('monitored dismissal'). The programme should be provided by the employer in cooperation with the employment office or training institution within the monitored dismissals procedure and should include employment services, vocational guidance, training and assistance in active job search which is established case by case.

In monitored dismissals, employers offer a special programme of training upon the employee's request. In the framework of the programme, the employer can finance training that lasts up to 6 months after the dismissal date and the costs of which should be equivalent to the employee's monthly remuneration when on holiday leave, but should not exceed 200% of the national monthly minimum wage (2000 PLN/approximately €460 in

2018). During the training, the employee is entitled to advice from the relevant District Labour Office. The employee can also take part in a one time training organised by the Poviát Labour Office. Monitoring dismissal is based on the article 70 of Act on of 20 April 2004 on employment promotion and labour market institutions. The provisions of this instrument can change because of proposal (2018) of new regulation - Labour Market Act.

Solidarity allowance

In connection with COVID-19 and the downturn caused by it on the labour market, on 19 June 2020, the temporary solution namely Act on solidarity allowance granted to counteract the negative effects of COVID-19 was adopted. Workers who lost their jobs due to the (post) pandemic recession were be entitled to benefit from such allowance for 3 months instead of unemployment benefit. The relevant application had to be submitted by 31 August 2020. The amount of the allowance is PLN 1,400 (€318) and is standard for anyone who meets the eligibility criteria. After the expiry of the 3 months receiving the solidarity allowance, the employee is entitled to regular unemployment benefit (provided that he/she meets the criteria). As of 13 August 2020, 185 000 such benefits were paid in the total amount of almost PLN 246, 000 000 (€55, 909 000).

The assumption behind this allowance is, among others, the fact that this period will be spent by those employees on self-improvement of existing skills or acquiring new ones, useful on the labour market, without the need to adapt to the rigid constraints applied to the unemployed registered at labour offices.

Commentary

Holiday pay mentioned in the description is individual pay which employees get during their holiday. It is calculated on the basis of the previous three months' pay or if there are huge differences between monthly payments, it is calculated as an average of the last six months' pay. The redundancy pay is calculated in the same way by analogy.

There is no information available about effectiveness of this regulation.

Additional metadata

Cost covered by	Employer National government
Involved actors other than national government	Public employment service Other

Involvement (others) Training institutes

Thresholds Affected employees: 50
Company size: 50
Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Poland: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Slovenia

Employers obligation to support redundant employees

Phase	Employment Relationship Act (ZDR-1)
Native name	Zakon o delovnih razmerjih (ZDR-1)
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

101

Description

The dismissal programme, drawn up by the employer in a collective dismissal procedure (within 30 days, dismissals of at least 10 employees in companies with 21-99 workers, at least 10% in companies with 100-299 workers and at least 30 dismissals in larger firms), shall among others contain the measures and criteria for the selection of measures to mitigate the harmful consequences of the termination of employment relationships, such as an offer for employment with another employer, assurance of financial assistance, assistance for starting an independent activity or purchase of pension qualifying period.

The dismissal programme is the employer's obligation only in cases of collective dismissals.

With a view to reaching an agreement, the employer has to consult the trade union about the dismissal programme for redundant workers. However, the employer is not required to take explicit account of the trade union's views.

The employer must inform the Employment Service in writing about the procedure of establishing redundancies of a larger number of workers and the performed consultation with the trade union. The employer is obliged to consider and to take into account any

proposals submitted by the Employment Service regarding possible measures for preventing or limiting to the greatest possible extent the termination of employment relationships of workers and the measures for the mitigation of harmful consequences of the termination of employment relationships.

Commentary

A study on the role of HRM in crisis management (Trebše, 2006) examined alternative solutions to dismissals undertaken by the management. The examples given in the study of how the management tried to reduce the harmful consequences of dismissals were the following:

- explored possibilities for employment with business partners,
- financed early retirement,
- offered interest-free loans to employees, who decided to become self-employed,
- explored possibilities for employment with temporary work agencies,
- extended the period of notice,
- dismissed only one family member if both were employed with the company, so that the family kept one source of revenue,
- offered scholarships with no repayment obligation,
- offered a higher severance pay than the payment to which the worker was entitled by the law.

However, not all companies included in the study offered such possibilities to excess workers.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Public employment service Trade union
Involvement (others)	None
Thresholds	Affected employees: 10 Company size: 21 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Slovenia: Employers obligation to support redundant employees, Restructuring legislation database, Dublin

Spain

Employers obligation to support redundant employees

Phase	Workers' Statute; Law 3/2012 of 6 July on urgent measures to reform the labour market
Native name	Estatuto de los Trabajadores; Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado laboral
Type	Employers obligation to support redundant employees
Added to database	11 May 2015
Access online	Click here to access online

Article

Article 18 of Law 3/2012

Description

During the consultation period of a collective dismissal in general (within 90 days, more than 5 employees made redundant if the whole workforce is affected; at least 10 employees in companies with fewer than 100 employees; 10% of the employees in companies between 100 and 299 employees; and 30 employees in companies with more than 299 employees), employers and workers' representatives discuss not only the reasons for the dismissal, but also the possibility of avoiding or reducing its effects, as well as the necessary measures to attenuate its consequences for workers. This does not apply in case of individual dismissals.

For example, the negotiators can agree on measures such as the use of outplacement companies, training (including training for the improvement of the workers' employability), or other measures to make possible the viability of the undertaking.

In undertakings with 50 or more employees, the employer must provide a social plan to the public authorities and workers' representatives. The social plan can include the following measures:

- measures intended to avoid or reduce the effects of restructuring – for instance, internal redeployment, functional or geographical mobility, substantial modifications of contractual conditions, training or retraining measures;
- promotion of self-employment or employment in the social economy;
- financial compensations for geographical mobility;
- economic, technical, organisational and other types of measures intended to make the continuation of the undertaking and its activity possible.

Companies have to carry out a special training and redeployment plan of at least 6 months implemented by means of an authorised outplacement company, if the collective dismissal affects over 50 employees.

Commentary

It is worth noting that only companies employing 50 workers or more are forced to implement a social plan aiming to support dismissed workers.

In practice, the use of early retirement schemes as social plan measure results in dismissals of employees near retirement age. This will not be discriminatory if continuity of earnings until retirement age is guaranteed, and justified that if these were not dismissed, other workers would be affected and the company could not guarantee compensation for them. In this case, these employees would be in worse situation in terms of entering the labour market.

Law 3/2012 extended external flexibility by specifying more precisely the objective reasons under which an employer can undertake a collective redundancy. In exchange, the law forced the companies to carry out a special training and relocation plan for the workers dismissed if the collective dismissal affects over 50 workers.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Public employment service Trade union Works council Other
Involvement (others)	Authorised outplacement companies

Thresholds

Affected employees: 6

Company size: 6

Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Spain: Employers obligation to support redundant employees, Restructuring legislation database, Dublin