

Croatia

Selection of employees for (collective) dismissals

Phase	Labor Act 93/2014, 127/17, 98/19, 151/22, 64/23
Native name	Zakon o radu 93/2014, 127/17, 98/19, 151/22, 64/23
Type	Selection of employees for (collective) dismissals
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Article

Articles 127 (2, 3, 4), 128 (2)

Description

The selection of employees for collective redundancy is made by the employer and must be discussed with the works council. The employer is obliged to supply the works council with all relevant information and notify them in writing on:

- the reasons for the projected redundancies;
- the total number and categories of workers employed;
- the number and categories of workers to be made redundant;
- the criteria proposed for the selection of the workers to be made redundant;
- the amounts and methods for calculating severance pay and other payments to the affected workers.

The projected collective redundancies notified to the competent public authority responsible for employment take effect not earlier than 30 days after the mentioned notification. The competent public authority responsible for employment may request the employer to postpone either collective or individual redundancies for a maximum 30 days, if he/she is able to ensure the continuation of employment for the workers during this extended period.

Commentary

In the selection of redundant employees, the employer, the works council and the public employment service pay due care to age, gender, level of education, job specification, termination period, duration of employment contract, disability status, number of family members they support, amount of severance pay required as well as alternative measures of employment and additional training for another position within the company. However, these are not exact rules.

Article 127 of the Labor Law stipulates that an employer whose need for work could cease within a period of ninety days for at least twenty workers, of whom the employment contracts of at least five workers would end due to business-related dismissal, is obliged to do so in a timely manner and in the manner prescribed by the Labor Law. The employer should consult with the workers' council in order to reach an agreement on how to reduce the need for workers. At the same time, as redundant workers are counted also workers whose employment relationship will end due to business-related termination of the employment contract and an agreement between the employer and the workers at the employer's proposal. Therefore, in such a case, it is important to distinguish who made the proposal for the agreement - the employer in the process of resolving the redundancy, or the employee for some of his or her personal reasons that have no relation to the collective redundancy. That is why, in such circumstances, it should be stated in the agreement who proposed it, which is otherwise not necessary in any way.

As mentioned, the agreement on the termination of the employment contract must be concluded in writing. Without a written form, there is no agreement, it is invalid, therefore void. So, unlike an employment contract, for which a written form is not necessary for its existence, it is necessary for a termination of the employment agreement. This is understandable because when concluding a contract, the very fact of working for an employer shows the agreement of the will of the employer and the employee, while the same situation does not exist in the termination of the employment contract. The absence of a written form could lead to numerous abuses and legal uncertainty, especially for the employee.

The agreement must be in writing, signed by both contracting parties, the employer and the employee. Of course, the worker signs in person, although the possibility of having a proxy with a valid power of attorney sign for him or her is not excluded. If the employer is a legal entity, the agreement can be concluded on his behalf by a person who is authorized to do so by the statute, social contract, declaration of incorporation or other rules of the legal entity. This person can transfer this authorization by written power of attorney to another legally competent person. The employer - a natural person personally signs the agreement, and can transfer this authorization with a written power of attorney to

authorize another legally capable person.

Even after such a change, so that the employer is no longer obliged to create a program for dealing with redundant workers, this institute remained in compliance with Council Directive 98/59/EC of 20 July, 1998, on the harmonization of the legal regulations of the member states on the collective dismissal of redundant workers. Its meaning is focused on the participation of workers' representatives in the entire process of collective cancellation in all its stages and enabling the application of active employment measures to reduce or prevent the consequences of the cancellation of the employment contract. However, the procedure has been simplified for employers, because previous obligation was usually extremely complex and required a lot of time and causes many problems. At the same time the results in terms of actually solving workers' problems, such as employment elsewhere, were negligible.

Additional metadata

Cost covered by	None
Involved actors other than national government	Public employment service Works council
Involvement (others)	None
Thresholds	Affected employees: 20 Company size: 20 Additional information: No, applicable in all circumstances

Sources

- [Graf, D. \(2023\), Otkazivanje ugovora o radu u postupku kolektivnog viška radnika - Članak 128. \(ZOR\) \(Cancellation of the employment contract in the collective redundancy procedure - Article 128 of the Labour Act ~~~ Zakon o radu \(Labor Act\) OG 93/14, 127/17, 98/19, 151/22, 64/23, consolidated text ~~~ Rozman, K. \(2023\), Načini prestanka ugovora o radu \(Ways to terminate the employment contract\) in Detaljni komentar Zakona o radu \(Detail Comments of the Labour Act\), Zagreb: Radno pravo. ~~~ Labour Act 93/2014 ~~~](#)

Citation



Restructuring legislation database

Eurofound (2015), Croatia: Selection of employees for (collective) dismissals, Restructuring legislation database, Dublin