Austria

Staff information and consultation on restructuring plans

Phase	Labour Constitution Act (ArbVG)
Native name	Arbeitsverfassungsgesetz (ArbVG)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

108, 109, 111

Description

Employers have to inform the works council about planned changes regarding the business operation. This has to be done in a way, at a time and with providing sufficient information to allow the works council to assess the potential consequences of the planned measures and comment on them. On demand of the works council the employer has to enter into consultations on the planned measures.

Changes of the business operation include (ArbVG, § 109):

- 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 automatisation measures of considerable importance;
- change of the legal form or ownership structures; and,
- planned collective dismissals (see definition).

The owner of a dependent company must inform employees about any important measures planned in the controlling company.

The employer is obliged to provide written information on the details of the planned restructuring process, including the reasons for the restructuring, the total number of employees in the company and their function, the number of potentially affected employees, their qualification and tenure as well as selection criteria to be applied for dismissals, the timing of the planned restructuring and the planned measures to avoid negative consequences for employees.

The works council may consult external experts if needed.

The works council has the right to make a proposal to avoid, reduce or remove negative consequences for employees, taking into account the economic situation of the firm.

If the planned changes bring about negative consequences (understood as reduction of 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, mitigate or eradicate disadvantages for employees. If the employer and the employees' representatives 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, 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 interest of the company as well as of the employees. The decision of the board has to be implemented.

In companies continuously employing more than 200 people the works council can lodge an appeal against changes in business operations listed in § 109 (as indicated above) as well as other economic measures if they entail negative effects for employees within three days after notification has been given (ArbVG, § 111). In cases of shutting down company activities, objections of the works councils will postpone the closure for four weeks. If within four weeks no agreement between the employer and the works council is achieved the case may be referred to a public mediation and arbitration board.

Commentary

Regarding the understanding of a 'considerable number of employees' in relation to the necessity to establish a social plan, the court decided in 1986 that 8% of the staff is a not a sufficiently high share.

In practice, the employer generally informs the works council, but often only after having decided upon the planned measure and shortly before implementing it. In these cases it is difficult for the works council to insist on changing the plan without being blamed for delays (Hofmann et al, 2011).

The ArbVG does not include regulations for cases where there is no works council at the company in question. There is an obligation to inform employees in the Employment Law Harmonisation Act (AVRAG) in the case of a business transfer; including information on the legal, economic and social consequences of the transfer for the employees (for further details see 'Staff information and consultation on business transfers').

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Other
Involvement (others)	Public mediation and arbitration board, experts
Thresholds	Affected employees: No, applicable in all circumstances Company size: 5 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Austria: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Belgium

Staff information and consultation on restructuring plans

Phase	Royal decree of 27 November 1973 on employers' obligations to provide economical and financial information within works councils
Native name	Arrêté royal du 27 novembre 1973 portant réglementation des informations économiques et financières à fournir aux conseils d'entreprises/Koninklijk besluit houdende reglementering van de economische en financiële inlichtingen te verstrekken aan de ondernemingsraden van 27 November 1973
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

1-42 and 62-70

Description

The law specifies that employers must consult with workers' representatives – workers, trade union representatives, or works councils - on decisions likely to lead to substantial changes in the work organisation or in contractual relations as well as in the economic and social context of the firm. Whereas information related to the employment structure, its evolution and forecast are provided on an annual basis and followed-up on a quarterly basis, new management policies which introduce changes in work organisation or in contractual relations are discussed on an ad-hoc basis. In this specific case, the law does not define any timeline, excepted that unions' representatives have to be informed before the implementation of any measures or decisions. Concerning the information and consultation procedure for collective dismissals, the employer provides information immediately after the decision to proceed to collective dismissals (within 60 days, dismissals of at least 10 workers in companies with 20-99 employees, at least 10% of the

workforce in companies with 100-299 employees or at least 30 dismissals in firms with 300 or more staff). Unions' representatives have to be the first ones to be informed about this intention. As soon as the unions are informed about the intention to proceed to collective dismissals, the information and consultation procedure starts with no prescribed limit in time.

The Belgian legislation specifies a minimum of 30 days for consultation, which can be extended by an additional 30 days if the employer has not complied with legal procedures. Further time may be allowed in the case of any objections being submitted.

The legislation specifies that the employers must consult with workers' representatives within the works council if there is one. If not, they must consult the trade union delegation if there is one. If not, they must consult the workers' representative within the health and safety committee. For cross-border collective dismissals, the employer may also have to consult with the European works council if there is one.

The Belgian legislation requires that the employer consults with workers' representatives on the following issues in writing:

- the reasons for the projected redundancies;
- the number and types of worker to be made redundant;
- the number and types of workers normally employed;
- the period over which the projected redundancies are to be effected;
- the criteria proposed for the selection of the workers to be made redundant; and
- the method to be used for calculating any redundancy payments.

During this procedure, unions' representatives have the possibility to ask questions and make suggestions or comments to the social plans regarding dismissals and employment within the company. The employer has the obligation to provide the requested information and answer to questions with the aim to avoid or reduce redundancies. At the end of this step, the employer has to send a report to the local employment authorities with proofs that all questions have been responded and all suggestions managed. Although there is no obligation to accept suggestions, the employer has to consider them and justify the refusal, if any.

The unions have the possibility to contest the report or/and the procedure in a 30 days period after the report is sent. The president of the joint sector committee that the company is member of (every company in Belgium is assigned to a joint committee when starting up) can play the role of a mediator in case of any conflict.

There is no provision in the legislation about smaller enterprises. The law is only related to the works council, which is established when the threshold of 100 employees is reached, except in cases of collective dismissals when a minimum of 20 employees is required.

Commentary

Several modifications or additions were made throughout the years in order to better comply with the reality of industrial relations. For instance, the cross-sector agreement n°15 (royal decree of 5 September 1974) aims at considering the case of companies which have several plans on these issues. Another example is the cross-sector agreement n° 37 (royal decree of 9 December 1981) which defines more precisely the information about employment issues that the management has to provide to the works council.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Other
Involvement (others)	The president of the joint sector committee
Thresholds	Affected employees: 10 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Belgium: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Bulgaria

Staff information and consultation on restructuring plans

Phase	Labour Code
Native name	Кодекс на труда
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Articles 130b, 130c, 130d

Description

Preparations for restructuring processes have to be done as early as possible and must begin when the need to restructure is being contemplated, no later than 45 days before collective redundancies (within 30 days, at least 10 dismissals in companies with 20-99 workers, at least 10% in companies with 100-299 workers, at least 30 dismissals in companies with 300 or more workers) are implemented. This preparation is carried out according to the methods and procedures negotiated at the sector level.

In the labour code, there is an obligation on the employer's side to inform and consult trade union and employee representatives in line with EU information and consultation regulation on collective redundancies and transfer of undertakings, change of activities, economic situation and work organisation.

The National Institute of Conciliation and Arbitration may participate in dispute resolution at the request of one of the parties, which must provide the following information:

- reasons for the planned redundancies;
- number of workers and employees to be made redundant and major economic activities, groups of occupations and jobs of the redundant employees;

- number of employed workers and employees of the major economic activities, groups of occupations and jobs in the enterprise;
- specific indicators for application of selection criteria for the workers and employees to be made redundant;
- period during which redundancies will take place;
- indemnities to be paid related to the redundancy.

Commentary

Consultation normally takes place after the public announcement but cases of advanced consultations are gradually increasing. A total of 90% of collective agreements covering around 20% of the labour force contain conditions on collective redundancies.

Additional metadata

Cost covered by	None
Involved actors other than national government	Employer organisation Public employment service Trade union Other
Involvement (others)	National Institute of Conciliation and Arbitration
Thresholds	Affected employees: 10 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Bulgaria: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Croatia

Staff information and consultation on restructuring plans

Phase	Labour 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	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Articles 127, 128, 140, 149, 150 (1, 3)

Description

Article 149 stipulates that the employer is obliged to inform the works council at least every three months about:

- business conditions, results and work organisation;
- expected business developments and their impact on employees' economic and social status;
- trends and changes in salaries;
- extent of and reasons for the introduction of overtime work;
- total number and categories of employees, employment structure (for instance, fixed-term employees, employees at alternative workplaces, employees assigned by employment agencies, employees temporarily posted to/from an associated company);
- employment development and policy;
- number and categories of employees to whom they have given a written consent for additional work;
- policies and measures on health protection and safety at work taken to improve working conditions;
- outcomes of labour inspections on health and safety;

- working conditions and other issues bearing relevance for the economic and social position of employees.

The employer is obliged to inform the works council about the above mentioned issues in a timely fashion and at the level of detail as to enable the members of the works council to evaluate any possible impact and prepare for negotiations with the employer.

In the article 149 new paragraphs were added, referring to the obligation of the employer, at least every three months, to inform the works council of, with the following text: 5) the number and type of workers employed by him or her, the employment structure (number of fixed-term workers, workers at an alternative place of work, remote work, work through a temporary employment agency, who are temporarily assigned to an affiliated company, or who are temporarily assigned to the employer from an affiliated company, the number of night workers), the employment structure by sex and the development and employment policy 6) the number and type of workers who, before starting work with another employer, informed the master employer about the contract on additional work concluded with another employer

According to article 150, before rendering a decision relevant to the employment situation of employees, the employer must inform and consult the works council about the proposed decision, taking into account its impact on employees. In these cases, the employer must enable the works council to organise meetings upon its request and before its final response about intended decision, in order to obtain additional answers and explanations related to its statement.

According to article 127, if the employer plans to make at least five employees redundant due to business-related reasons (out of at least 20 employees to be dismissed on any other grounds) within a period of 90 days, the employer needs to consult with the works council in order to find alternative solutions. The employer is obliged to supply the works council with all relevant information and notify them in writing about:

- the reasons for the projected redundancies;
- the total number and categories of employees;
- the number and categories of employees to be made redundant;
- the criteria proposed for the selection of employees that are likely to be made redundant;
- the amounts and methods for calculating severance pay and other payments to employees;
- the measures designed to alleviate the consequences of redundancy for employees.

The works council may send any comments and suggestions it may have to the employer as well as to the competent public employment service. However, negative opinions, comments and suggestions from the works council do not prevent the employer from proceeding with the projected redundancies.

Employers must inform the competent public employment service on consultations with the works council and disclose to them the same document detailing the reasons and criteria of dismissals provided to the works council. In addition, the employment service needs to be informed of the duration of consultations with the works council, results of the consultations and written remarks of the works council related to dismissals. The employment service may request the employer to postpone either collective or individual redundancies for up to 30 days, if the service believes that the employer can ensure the continuation of employment for the employers during this extended period.

Article 150 defines that other important decisions include in particular those on:

- the adoption of working regulations;
- employment plans, developments, policies and dismissal procedures;
- business transfers and its impact on affected employees;
- measures related to the protection of health and safety at work;
- the introduction of new technologies and change of organisation and method of work;
- annual leave schedules;
- working hours patterns;
- night work;
- compensations for inventions and technical innovations;
- collective redundancies and all other decisions that, under the law or collective agreements, must be rendered in consultation with the works council.

Article 150, which defines obligation to consult before rendering a decision, was amended with a following paragraph:

11) the appointment of a person who is authorized to receive and resolve complaints related to the protection of the dignity of workers.

Commentary

The establishment of a works council is not an obligation but a right given to employees in all companies except public administration and institutions with fewer than 20 employees. Employees have the right to elect, in free and direct elections, by secret ballot, one or more of their representatives in the works council, which represents them before their employer

in relation to the protection and promotion of their rights and interests. If there is no works council in the company, affected workers can demand legal aid and forms of help from the responsible (authorized) trade union.

Additional metadata

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

Sources

Citation

Eurofound (2015), Croatia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Cyprus

Staff information and consultation on restructuring plans

Phase	Law 78(I)/2005 on Establishing a General Framework of Information and Consultation of Employees; Law 106(I)/2011 on the Establishment of European Workers' Councils of 2011-2018; Law 28(I)/2001 on Collective Dismissals of 2001-2018.
Native name	N. 78(I)/2005 – Ο περί της Θέσπισης Γενικού Πλαισίου Ενημέρωσης και Διαβούλευσης των Εργοδοτουμένων νόμος του 2005; N. 68(I)/2002 – Ο περί σύστασης Ευρωπαϊκών Επιτροπών Επιχειρήσεων Νόμος του 2002-2011; N. 28(I)/2001 - Ο περί Ομαδικών Απολύσεων Νόμος του 2001
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Article 3, 5.1 and 6.1 of the Law 78(I)/2005 on Establishing a General Framework of Information and Consultation of Employees; Articles 7-11 and Articles 2, 3 and 15 of the Law 106(I)2011 on the Establishment of European Workers' Councils of 2011-2018; Article 4, 5 and 6 of Collective Dismissals Law of 2001 (Law 28(I)/2001)

Description

Law on Establishing a General Framework of Information and Consultation of Employees

As regards the nature of the information and consultation process and its practical details, Law 78(I)/2005 lays down employees' right to information and consultation in relation to the following matters:

- Information on the recent and projected evolution of an enterprise's activities and financial situation (article 5.1.a);

- Information and consultation in relation to the situation, structure and prospective evolution of employment in the enterprise, as well as preventive measures that may be provided for, especially if jobs are at risk of being cut (article 5.1.b);
- Information and consultation in relation to decisions that may bring about essential changes in the organisation of work or employment contracts, including those falling within the framework of the special information and consultation procedures described in the Collective Dismissals Law 28(I)/2001 and the Law 104(I)/2000 on the Safeguarding and Protection of Employees Rights in the event of transfer of undertakings or parts thereof (article 5.1.c).

In addition, the employer must disclose the following information in writing to the employee representatives (article 5.3):

- reasons for the proposed collective redundancy;
- number and description of employees proposed to be made redundant;
- total number and description of employees normally employed;
- time period during which the proposed redundancies are to take place;
- criteria for selecting the employees to be made redundant;
- calculation method for redundancy payment.

Employers are obliged to inform and consult worker representatives in all cases of collective dismissal, and must be able to prove this in writing. Moreover, the Ministry of Labour, Welfare and Social Insurance must be notified in writing, and should then take appropriate steps to protect jobs where possible. Employees may not be dismissed earlier than 30 days after the ministry has been notified.

Additionally, article 6.1 of the Law 78(I)2005 provides that social partners may, at the appropriate level, including the level of the enterprise, determine freely and at any time with an agreement the practical arrangements for the information and consultation of employees.

The time, manner and content of the information must be such as to allow the workers' representatives to undertake a comprehensive analysis and where necessary prepare for consultation.

The law is applicable to both public and private business pursuing economic activities, independently of the profit or non-for-profit nature of the business and businesses with at least 30 employees.

An amendment in 2018 extended the coverage of the law to crews of sea vessels.

Law on the Establishment of European Work Councils

Law 106(I)2011 on the Establishment of European Work Councils is aiming at ensuring and improving the right of employees on information and consultation in community-scale undertakings and community-scale group of undertakings (article 3).

Community-scale undertakings and Community-scale groups of undertakings are undertakings established in the Republic of Cyprus with at least 1,000 employees in Member States and at least 150 employees in at least two different Member States (article 2).

The law is regulating the setting up of European work councils in such undertakings. Restructuring plans would lie within the scope of European work councils (article 15), provided they qualify as so-called transnational issues, that is an issue affecting the whole community-scale undertaking or group of undertakings or at least two facilities of the undertaking or group of undertakings in two different member states.

An amendment in 2018 extended the coverage of the law also to employees of sea vessels.

*Collective Dismissals Law

In cases of collective dismissals consultations shall, as a minimum, cover the following matters: possible measures to prevent any collective dismissals (within 30 days, dismissal of at least 10 workers in companies with 21-99 employees, 10% of workforce in companies with 100-299 employees or at least 30 dismissals in larger firms) or to reduce the number of the employees who would be affected, and possible ways and means for easing the adverse consequences arising from such collective dismissals, through social measures, for example the reemployment or retraining of dismissed employees.

An amendment in 2018 extended the coverage of the law also to employees of sea vessels.

Commentary

Law 78(I)/2005 applies to companies with at least 30 employees.

Law 106(I)/2011 applies to enterprises with at least 1,000 employees in Member States and at least 150 employees in each of at least two different Member States.

The Labour Relations Department receives information on restructuring plans both from employers and trade unions. The department ensures then that the employer's obligations remain in line with the provisions of the legislation. According to the department's records no complaints have yet been received in relation to staff information and consultation on

restructuring plans.

Additional metadata

Cost covered by	Not available
Involved actors other than national government	Employer organisation Trade union Works council
Involvement (others)	None
Thresholds	Affected employees: 10 Company size: 21 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Cyprus: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Czechia

Staff information and consultation on restructuring plans

Phase	Labour Code (Law No. 262/2006 Coll.)
Native name	Zákoník práce, zákon č. 262/2006 Sb.
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

46, 61, 278-280, 286, 287, 300

Description

The Labour Code requires the employer to inform and discuss a number of measures regarding possible restructuring with employees or their representatives. If a trade union does not work with an employer, the employee representative function may be performed by a works council elected by the employer's employees. For information and consultation on health and safety at work, health and safety representatives can perform this role. If the employer does not have a trade union or a work council, nor has a health and safety representative been elected, the employer must inform and negotiate directly with the employees concerned.

Where the employer transfers his/her employee to alternative work which does not conform to the employment contract and the employee does not agree to such measure, the employer may transfer (for more than 21 working days in one calendar year) this employee only after consultation with the trade union organisation.

The employer shall consult notice of termination or immediate termination of an employment relationship with the trade union organisation in advance. Where notice of termination or immediate termination of an employment relationship concerns a member of the trade union organisation operating within the employer's undertaking (business)

during the member's term of office or for a period of one year afterwards, the employer shall ask the trade union organisation for its prior consent to such notice of termination or immediate termination.

Informing means transferring and sharing the necessary information upon which to objectively assess the reality. The employer shall provide this information sufficiently in advance and in a suitable manner so that employees could consider the fact, prepare themselves to consult it and express their opinion before a certain measure is implemented.

Consultation means a negotiation between the employer and the employees, exchange of opinions and explanations with the aim to reach an agreement. The employer shall ensure for a consultation to take place sufficiently in advance and in an appropriate manner so that the employees can express their opinions on the basis of the data supplied to them and the employer can take these opinions into account before a certain measure is implemented. In a consultation the employees are entitled to receive a reasoned response to their opinion.

The employer shall inform employees on:

1. the economic and financial situation of the undertaking and its probable development;
2. activities of the undertaking, probable development, environmental impact;
3. the legal status of the undertaking and any changes in such status, internal organisational structure and the person authorised to act in the name on behalf of the employer (undertaking) in labour relations, the prevailing activity of the undertaking with the relevant code according to the Economic Activities Classification and changes in the objects of business activity;
4. fundamental issues of working conditions and their changes;
5. matters within the scope laid down in the law related to consultation rights (see below);
6. measures by which the employer secures equal treatment of male and female employees and prevention of discrimination;
7. an offer of vacancies for an indefinite period (open-end employment) which would be suitable for employees currently employed by the employer for a fixed term;
8. occupational safety and health protection;
9. the issues in the scope laid down either by an agreement on setting up a European Works Council or on the basis of some other agreed procedure for supranational information and consultation of employees.

The obligations in subsection (1) to (2) shall not apply to an employer employing fewer than 10 employees.

The employer shall consult employees on:

1. probable economic development of the undertaking;
2. probable structural changes within the undertaking, rationalisation or organisational measures, any measures affecting employment, in particular measures in connection with collective redundancies;
3. the latest number and structure of employees, probable employment development in the undertaking, fundamental issues of working conditions and their changes;
4. transfer(s) ;
5. occupational safety and health protection;
6. the issues in the scope determined either by an agreement on setting up a European Works Council or on the basis of some other supranational information and consultation procedure.

The obligations in subsection (1) to (3) shall not apply to an employer employing fewer than 10 employees.

Where two or more trade union organisations exercise their activities within one undertaking in those cases which concern all the employees or a large number of employees and in which the Labour Code or other statutory provisions require information, consultation, the expression of consent by, or agreement with, the (competent) trade union organisation, the employer shall fulfil the duties in relation to all the trade union organisations (exercising their activities within the undertaking) unless the parties determine some other information and consultation procedure or another manner of expression of consent.

The employer shall inform the trade union organisation of

- development in wages or salaries, the average wage or salary and its individual elements, including breakdown according to individual occupational categories unless it is agreed otherwise;
- other matters laid down in the Labour Code.

The employer shall consult the trade union organisation on:

- notice of termination or immediate termination of an employment relationship;
- transfers of an employee to alternative work which does not conform to the employment contract and the employee does not agree to such measure;
- the employer’s economic situation;
- workload and work pace;

- changes in work organisation;
- the system of remuneration and appraisal of employees;
- the system of employee training and vocational education;
- the measures to create conditions for the employment of natural persons, in particular adolescents, persons taking care of a child under 15 years of age, and disabled persons, and including substantial issues relating to the care of employees, measures aimed at improving occupational hygiene and the working environment, and the organisation of social, cultural and physical training needs of employees;
- other measures which relate to a larger number of employees;
- other matters laid down in the Labour Code.

The state labour inspection office controls compliance with the obligation to inform and consult employees or their representatives.

Commentary

The implementation of the EU Directives on information and consultation issues in the Labour Code has produced a number of benefits linked to the information and consultation system, namely a broader range of partners involved in negotiations, improved management decisions and the prevention of workplace conflict. On the other hand, the operation of an I&C system within companies brought significant costs, the most important of which are paid time-off for management and employee representatives and providing for the smooth functioning of I&C bodies. Provisions on collective redundancies have considerably increased the amount of administration work, notably in notifying public authorities. (Source: Evaluation of the operation and effects of information and consultation directives in the EU/EEA countries, Fitness Check, National Report Czech Republic, Štěpánka Pfeiferová, RILSA 2011)

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Trade union Works council Other
Involvement (others)	Health and safety representative, state labour inspection office

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), Czechia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Denmark

Staff information and consultation on restructuring plans

Phase	The Danish Act on Collective Redundancies (Consolidation Act no. 291 of 22 March 2010); The Danish Act on Information and Consultation of Employees (Act no. 303 of 2 May 2005)
Native name	Bekendtgørelse af lov om varsling m.v. i forbindelse med afskedigelser af større omfang (LBK nr 291 af 22/03/2010); Lov om information og høring af lønmodtagere (LOV nr 303 af 02/05/2005)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Section 5 Danish Act on Collective Redundancies, Section 4 Danish Act on Information and Consultation of Employees

Description

If the restructuring plan is expected to involve redundancies on a scale falling within the scope of the Danish Act on Collective Redundancies (within 30 days, at least 10 dismissals in companies with 21-99 employees, at least 10% of workforce in companies with 100-299 employees or at least 30 dismissals in larger companies), the employer must, as soon as possible, initiate negotiations with the employees or employee representatives.

The negotiations must aim at preventing or reducing the expected redundancies or, if this is not possible, alleviate the consequences of the redundancies.

The employer must, through employee representatives, provide the employees with adequate information on matters which affect them. Further, the employer must consult the employee representatives on these matters.

This means that the preparation of the restructuring has to take place in a timely manner in order for the information, consultation and negotiation to be carried out in accordance with the Danish Act on Collective Redundancies and/or the Danish Act on Employees' Rights in the event of Transfers of Undertakings and/or the Danish Act on Information and Consultation of Employees.

It is important to stress that the restructuring exercise is not subject to the 'approval' of the employees or employee representatives.

The employer is obliged to give the written notices to the works council at least 30 days in advance and inform them about the reasons for the dismissals, the proposed number, the criteria to be used in selecting the employees for dismissal and whether any employees are entitled to severance pay and if so how this will be calculated.

According to the Act on notification in connection with collective redundancies, the employees' representatives can call for expert advice from the national confederation.

A minimum period of consultation is only specified in those cases where at least 50% of a workforce of 100 or more employees is being made redundant, in which case, the minimum period is 21 days.

The minimum 21-days period of consultation can change during the process of negotiation and possible mediation, if new information or new possibilities (e.g. a new owner of the company) change the situation.

The legislation specifies that employers are required to consult on the:

- reasons for the projected redundancies;
- number and types of workers to be made redundant;
- number and types of workers normally employed;
- period over which the projected redundancies are to be effected;
- criteria proposed for the selection of the workers to be made redundant;
- method to be used for calculating any redundancy payments.

Employers have no specific legal obligations to modify their plans regarding redundancies as a result of the consultation.

Commentary

The Industry Agreement (DI) and all other important agreements have implemented the legislation on collective redundancies. The agreement must, as a minimum, contain the

same protection as the act in order to take precedence. Collective agreements are enforceable in labour law (the Industrial Court) and non-compliance is sanctioned.

Additional metadata

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

Sources

Citation

Eurofound (2015), Denmark: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Estonia

Staff information and consultation on restructuring plans

Phase	Employees' Trustee Act; Employment Contracts Act
Native name	Töötajate usaldusisiku seadus; Töölepingu seadus
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Employees' Trustee Act §17, 20, 21; Employment Contracts Act § 101-103

Description

An employer who employs at least 30 employees shall inform and consult in at least the following circumstances pertaining to employees:

- the structure of the company, the staff, including the employees performing duties by way of temporary agency work, changes therein and planned decisions which significantly affect the structure of the company and the staff;
- planned decisions which are likely to bring about substantial changes in the work organisation;
- planned decisions which are likely to bring about substantial changes in the employment contract relationships of employees, including termination of employment relationships.

An employer shall provide information in a manner which enables to thoroughly examine the information and, if necessary, prepare for consultations with the employer. The employer shall provide information in writing or in a format which can be reproduced in writing, unless the parties have agreed otherwise.

In cases of collective dismissal, the employer shall consult in good time the trustee/shop steward or, in his or her absence, employees with the goal of reaching an agreement on the prevention of the planned dismissals or reduction of the number thereof and mitigation of the consequences of the dismissals, including contribution to the seeking of employment by or retraining of the employees to be laid off

Collective dismissals means termination, within 30 calendar days, of the employment contract of no less than:

- 5 employees in an enterprise where the average number of employees is up to 19;
- 10 employees in an enterprise where the average number of employees is 20–99;
- 10 % of the employees in an enterprise where the average number of employees is 100 to 299;
- 30 employees in an enterprise where the average number of employees is at least 300.

An employer has additional responsibilities in such cases, and is obliged to furnish the appointed trustee/shop steward with:

- the reasons for the collective dismissals;
- the number and official titles of all employees;
- the number and official titles of those employees and the selection criteria determining the persons whose employment contracts are to be cancelled;
- the period of time during which the employment contracts are to be cancelled;
- the method of calculation of the compensation to be paid to the employees in addition to the benefits prescribed by law or the collective agreement.

The employer shall send a transcript of the information specified above to the Estonian Unemployment Insurance Fund (Töötukassa) concurrently with the submission of the information to the trustee/shop steward or, in his or her absence, the employees.

The appointed labour union representative (shop steward), an employee trustee or, in his or her absence, the employees have the right to present a written opinion or make a proposal concerning the information received from the employer or notify of the intention to commence consulting within 15 working days as of the receipt of the information. If the employer does not take the proposals into consideration, the reasons for this shall be given at the earliest opportunity in writing or in a format which can be reproduced in writing.

The employer shall commence consultation within seven working days as of the receipt of the request for consulting.

The employer shall explain in the consultation the activities planned and the consequences thereof for the employees. The parties shall seek to reach an agreement on the planned activity.

The labour union representative (a shop steward), the employee trustee or, in his or her absence, the employees may involve experts in the consultation.

Commentary

No information available.

Additional metadata

Cost covered by	None
Involved actors other than national government	Public employment service Works council Other
Involvement (others)	Experts can be involved in the consultation
Thresholds	Affected employees: 5 Company size: 19 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Estonia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Finland

Staff information and consultation on restructuring plans

Phase	Act on Cooperation (1333/2021), Act on Cooperation within [...] Groups of Undertakings (335/2007), Act on Cooperation within Government Agencies and Institutions (1233/2013), Act on Cooperation [...] within Municipalities (449/2007)
Native name	Yhteistoimintalaki (1333/2021), Laki yhteistoiminnasta suomalaisissa ja yhteisönlaajuisissa yritysryhmissä (335/2007), Laki yhteistoiminnasta valtion virastossa ja laitoksissa (1233/2013), Laki työnantajan ja henkilöstön välisestä yhteistoiminnasta kunnissa (449/2007)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

1333/2021: Ch. 2, 3. 335/2007: §3. 1233/2013: Ch. 1-4. 449/2007: Sec. 1-15

Description

According to the acts on cooperation, the employer has an information and consultation obligation towards the employees regarding matters and decisions that may have an effect on them. Such matters include, but are not limited to, (collective) dismissals, temporary lay-offs, alternations of full-time contracts into part-time contracts, the termination of some or all activities of the company, its transfer to another place, the acquisition of machinery and equipment, changes in the range of services or products, work arrangements, and the use of external labour.

Personnel representatives have a right of access to information, which is connected to the dialogue between the employer and the personnel representative. The employer must provide the necessary information related to the matter under consideration, which the

employer can reasonably provide, and which the employer has the right to provide. The personnel representative also has the right of initiative, i.e. he can bring up issues he deems necessary for dialogue. The employer must provide certain information to the personnel representative annually, regardless of whether there is a dialogue on the matter at the time. This way, the personnel representative always knows the situation and conditions of the workplace.

The opportunities for personnel to participate in the processing of matters concerning the status of employees can also be promoted by personnel representation in company administration (administrative representation). Administrative representation applies to companies with at least 150 employees.

The administrative representative must enter a truly influential decision-making body, i.e. a body that deals with important issues regarding business, finances and the position of personnel, and he will also receive the necessary training to function in the body.

The requirements in terms of negotiations of changes only apply if the number of employees employed by the company is regularly at least 20. Temporary workers are not included in the number of employees of the company.

The employer is obliged to conduct change negotiations when it considers the dismissal, layoff, part-time employment of one or more employees or unilaterally changing an essential condition of the employment contract on economic or production grounds.

Negotiations must start when the employer is considering measures in accordance with the Cooperative Act, such as layoffs or part-time employment. If the employer is considering layoffs, the employer must still draw up operating principles or an action plan that support the employment of employees.

Commentary

Trade unions are generally at least nominally involved in cooperation negotiations, as trade union members have a priority to employee representative positions.

Additional metadata

Cost covered by None

Involved actors other than national government	Trade union Works council
Involvement (others)	None
Thresholds	Affected employees: 20 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Finland: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

France

Staff information and consultation on restructuring plans

Phase	Labour Code
Native name	Code du travail
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

L.2323-3 to L.2323-6, L.2323-7-1, L.2323-7, L.2323-15 to L.2323-19, L.2325-35, L.2325-42-1, L.1233-8 to L.1233-10, L. 1233-24-1, L.1233-28 to L.1233-34, R. 2323-1, R. 2323-1-1

Description

The employer has to inform and consult the works council (comité social et économique - CSE) about all changes affecting the organisation of the company, such as restructuring, in due time. The latter provides a non-binding opinion. The CSE has to give its opinion according to certain time limits, set up by a collective agreement with the employer or, at least in general, 1 month after it received the information provided by the employer for its consultation or after the employer provides this information through the 'Economic, social and environmental database' ('base de données économiques, sociales et environnementales'). The consultation period of the CSE (or central CSE) is extended to 2 months if the CSE asked to be assisted by an external expert paid by the employer; 3 months if one or several health and safety committee(s) (CHCST) have to be consulted and 4 months if an ad-hoc central health and safety has been set up for the purpose. If the CSE does not meet the different deadlines, it is deemed to have been properly consulted and to have provided a negative opinion.

Certain extra conditions apply in the case of collective dismissals. The employer must give employee representatives all relevant information regarding the dismissals, such as the economic, financial or technical reasons for the dismissals, the number of dismissals

planned, the professional categories concerned and the method of selection of employees, the number of employees working in the company, a provisional timetable and the economic measures considered.

If the employer plans to dismiss at least 10 employees over a 30 day period, they also have to inform the employee representatives about:

- internal or external redeployment measures for companies employing fewer than 50 employees;
- the redundancy plan for companies employing more than 50 employees.

In companies employing fewer than 50 employees, staff representatives are consulted and hold 2 meetings that are separated by a maximum of 14 days. In companies employing more than 50 employees, the CSE has to hold at least 2 meetings separated by a minimum of 15 days. Thereafter, the CSE has to give its opinion according to a certain deadline :

- 2 months if the number of dismissals is less than 100
- 3 months if the number of dismissals is between 100 and 249
- 4 months if the number of dismissal is over 249

In all cases if the works council does not meet the deadline, it is deemed to have been properly consulted. The employer can implement and apply its restructuring plan regardless of the CSE's opinion (consultation rights only).

After informing the employee representatives for the first time, the employer may start to negotiate with the representative unions a company-level agreement on the Job-saving plan ('Plan de sauvegarde de l'emploi'). Alternatively, the employer can unilaterally draft a document on the employment security plan and the terms of the employee information and consultation process.

In both cases, the CSE, where deemed necessary, may call in an outside expert of their choice, at the employer’s expense to advise them on collective redundancies involving 10 or more employees. The law stipulates the process of obtaining external expertise in great detail (Labour Code, article L. 1233-34 and L. 1233-35).

The employer has to inform the labour inspectorate of its restructuring plan the day after the first information meeting with the employee representatives. The labour inspectorate verifies whether the information and consultation requirements are respected and may suggest improvements to the employment security plan. The labour inspectorate has to approve the company-level agreement on the Job-saving plan or the unilateral document drafted by the employer. If the employer does not obtain the approval of the labour inspectorate the dismissals are void.

Finally, the Labour Code includes a provision upon which the employer of companies with more than 1,000 employees has an obligation to inform its CSE if the company is planning to close a site that will lead to a collective dismissal. The employer has to provide information about its efforts to look for a buyer for the take over of the site, and about the different means and tools to be used by the employees to take over the site (as the creation of a cooperative company). The measure replaces a former provision of the Labour Code that stipulated that the employer in such situation was obliged to look for a take-over.

Commentary

Collective bargaining agreements may amend the minimum legal requirement for consultation procedures. The the 'Economic, social and environmental database' ('base de données économiques, sociales et environnementales') contains economic and social information and was introduced by the Employment Security Act (loi sur la sécurisation de l'emploi) on 14 June 2013. The database consists of all the company data which have to be sent to the CSE on a regular basis as well as the information necessary for the works council's annual consultation on the establishment's strategic direction and its consequences. The law was implemented gradually. By 14 June 2014, establishments with 300 or more employees had to have a complete database in place. The deadline was 14 June 2015 for businesses having fewer than 300 employees.

Additional metadata

Cost covered by	Employer
Involved actors other than national government	Works council Other
Involvement (others)	Experts
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: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Germany

Staff information and consultation on restructuring plans

Phase	Works Constitution Act; Employment Protection Act
Native name	Betriebsverfassungsgesetz; Kündigungsschutzgesetz
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

102, 111-113 (Works Constitution Act); 117 (Employment Protection Act)

Description

The Works Constitution Act applies to establishments employing 5 or more employees, while the Employment Protection Act applies to establishments employing at least 21 workers.

In companies employing more than 20 workers holding the right to elect a works council (managerial staff excluded), the employer has to inform and consult the works council in full and with appropriate notice of any proposed changes in the business likely to entail disadvantages for the staff or a considerable share of the staff.

Changes defined as requiring information and consultation of the works council are:

- closure of the establishment or reduction of important departments;
- delocalisation of the establishment or of important departments;
- merger with other establishments or split up of businesses;
- important changes in the organisation, purpose or production plant of the establishment;
- introduction of entirely new forms of work organisation or production processes.

The works council has no co-determination rights with regard to economic and organisational decisions of the proposed alterations, but only with regard to the social aspects involved.

The works council is entitled to make suggestions for securing and stimulating employment, particularly with regard to working time, work organisation, processes, qualification, alternatives to outsourcing work and the production and investment portfolio of the firm. In establishments with over 300 employees the worker representatives may hire a consultant to help and advise the works council on these issues. The employer has to consult on the suggestions of the works council.

The consultation should aim at reaching a balance-of-interests agreement (Interessenausgleich) defining whether, when and at which terms the restructuring shall be implemented. The employer has to pay loss compensation (severance pay) if she/he does not take up consultations or if she/he breaks a settled agreement. The settling of a balance-of-interests agreement is voluntary and cannot be enforced by the works council. In case of a dispute, both parties may apply to the chair of the Federal Employment Agency (Bundesagentur für Arbeit) for arbitration. However, the mediator is not allowed to take a decision. Balance-of-interests agreements do not have to be reached.

In contrast, the employer and the works council are obliged to set out a social plan (Sozialplan) if the restructuring entails disadvantages (dismissals, transfer to new position) for employees. The social plan should compensate for financial loss and suggest training schemes aimed at avoiding unemployment. The Works Constitution Act does not specify the coverage of the social plan, which in practice typically covers standard full-time and part-time workers and excludes workers on fixed-term contracts, trainees and managerial staff. Establishments in place for less than four years do not have to conclude and finance a social plan.

According to the Employment Protection Act, creating a social plan in cases of collective dismissals requires specific information and communication between the employer and the works council. The notification should cover the following information:

- reasons for the projected redundancies,
- the number and occupational groups of the employees affected,
- the number and occupational groups of the employees generally employed by the establishment,
- the period in which the redundancies are to take effect,
- the projected criteria in the choice of the employees to be made redundant, and
- the method used to calculate any redundancy payments.

Under the Works Constitution Act, an employer planning a collective dismissal (if a certain number of employees is to be dismissed within 30 days, that is, at least 6 employees or 20% of the workforce in firms with 21–59 employees; at least 26 employees or 10% of workforce in firms with 60–249 workers; at least 60 employees or 15% of workforce in firms with at least 500 workers) must notify the works council at least two weeks before the public announcement of a collective dismissal. The works council may use experts that are to be paid by the employer. If there are fewer than 299 employees, the employer has to approve this measure; in case of 300 employees and more the works council can consult an external expert without approval.

In case of dispute with regard to the social plan, the conciliation committee (established by the Federal Employment Agency) shall make a decision on the social plan.

Commentary

According to Däubler et al (2012), paragraphs 111-113 of the Works Constitution Act covers companies as well as establishments meaning that all establishments (meeting the threshold) of a company are covered.

Additional metadata

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

Sources

Citation

Eurofound (2015), Germany: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Eurofound

Restructuring legislation database

Greece

Staff information and consultation on restructuring plans

Phase

-Law 4738/2020 (Official Government Gazette A' 207/27.10.2020). "Debt Settlement and Facilitation of a Second Chance", as amended by Law 4818/2021 (Official Government Gazette A 124/18.07.2021) "a) Incorporation into Greek legislation of provisions of Directives (EU) 2017/2455, (EU) 2019/1995 and (EU) 2018/1910 regarding obligations arising from value added tax for the provision of services and distance sales of goods and related arrangements; b) Amendments to Law 4649/2019 "Programme for the provision of guarantees in securitizations of credit institutions" (A΄ 206), based on the approval decision of the European Commission under documents C(2021) 2545/9.4.2021 (2021/N) for the extension of the program " HERAKLIS" c) Provisions for the settlement of debts and the provision of a second chance -Amendments to Law 4738/2020 and other provisions d) Other urgent provisions of the competence of the Ministries of Development and Investments, National Defence, Culture and Sports, Infrastructure and Transport, & Law 5043/2023 (Official Government Gazette A' 91/13.04.2023), "Regulations concerning Local Government Organizations of the first and second degree; Provisions for the well-being of companion animals; Provisions for the human resources of the public sector; Other regulations of the Ministry of the Interior and other urgent provisions" -Law 4601/2019 (OJHR 44/A/09-03-2019) Corporate transformations and harmonisation of the legislative framework with the provisions of Directive 2014/55/EU of the European Parliament and of the Council of 16 April 2014 on electronic invoicing in public procurement and other provisions; Law 4472/2017 (Government Gazette Ά 74/19.05.2017) on implementation measures for fiscal goals and reforms, medium-term financial strategy framework 2018-2021 and other provisions; PD 178/2002 on measures for safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of businesses, transposing Directive 98/50/EC; PD 240/2006 on establishing a general framework for informing and consulting employees in the European Community, transposing Directive 2002/14/EC; Law 1387/1983 on collective dismissals; Law 3863/2010: New Social Security System and related provisions. Regulation of labour relations

Native name

-Νόμος 4738/2020 (ΦΕΚ Α' 207/27.10.2020), "Ρύθμιση οφειλών και παροχή δεύτερης ευκαιρίας και άλλες διατάξεις", όπως τροποποιήθηκε από το Ν. 4818/2021 (ΦΕΚ Α' 124/18.07.2021), "α) Ενσωμάτωση στην ελληνική νομοθεσία διατάξεων των Οδηγιών (ΕΕ) 2017/2455, (ΕΕ) 2019/1995 και (ΕΕ) 2018/1910 όσον αφορά υποχρεώσεις που απορρέουν από τον φόρο προστιθέμενης αξίας για παροχές υπηρεσιών και πωλήσεις αγαθών εξ αποστάσεως και σχετικές ρυθμίσεις β) Τροποποιήσεις του ν. 4649/2019 «Πρόγραμμα παροχής εγγύησης σε τιτλοποιήσεις πιστωτικών ιδρυμάτων» (Α΄ 206), βάσει της υπό στοιχεία C(2021) 2545/9.4.2021 (2021/Ν) εγκριτικής απόφασης της Ευρωπαϊκής Επιτροπής για παράταση του προγράμματος «ΗΡΑΚΛΗΣ» γ) Διατάξεις για τη ρύθμιση οφειλών και την παροχή δεύτερης ευκαιρίας -Τροποποιήσεις του ν. 4738/2020 και λοιπές διατάξεις δ) Λοιπές επείγουσες διατάξεις αρμοδιότητας Υπουργείων Ανάπτυξης και Επενδύσεων, Εθνικής Άμυνας, Πολιτισμού και Αθλητισμού, Υποδομών και Μεταφορών", και το Ν. 5043/2023 (ΦΕΚ 91/Α/13.04.2023), "Ρυθμίσεις σχετικά με τους Οργανισμούς Τοπικής Αυτοδιοίκησης α' και β' βαθμού; Διατάξεις για την ευζωία των ζώων συντροφιάς; Διατάξεις για το ανθρώπινο δυναμικό του δημοσίου τομέα; Λοιπές ρυθμίσεις του Υπουργείου Εσωτερικών και άλλες επείγουσες διατάξεις" -Νόμος 4601/2019 (ΦΕΚ 44/Α/09-03-2019) Εταιρικοί μετασχηματισμοί και εναρμόνιση του νομοθετικού πλαισίου με τις διατάξεις της Οδηγίας 2014/55/ΕΕ του Ευρωπαϊκού Κοινοβουλίου και του Συμβουλίου της 16ης Απριλίου 2014 για την έκδοση ηλεκτρονικών τιμολογίων στο πλαίσιο δημόσιων συμβάσεων και λοιπές διατάξεις; Νόμος 4472/2017 (ΦΕΚ Α' 74/19-5-2017) Συνταξιοδοτικές διατάξεις Δημοσίου και τροποποίηση διατάξεων του ν. 4387/2016, μέτρα εφαρμογής των δημοσιονομικών στόχων και μεταρρυθμίσεων, μέτρα κοινωνικής στήριξης και εργασιακές ρυθμίσεις, Μεσοπρόθεσμο Πλαίσιο Δημοσιονομικής Στρατηγικής 2018-2021 και λοιπές διατάξεις; ΠΔ 178/2002: Μέτρα σχετικά με την προστασία των δικαιωμάτων των εργαζομένων σε περίπτωση μεταβίβασης επιχειρήσεων, εγκαταστάσεων ή τμημάτων εγκαταστάσεων ή επιχειρήσεων, σε συμμόρφωση προς την Οδηγία 98/50/ΕΚ του Συμβουλίου; ΠΔ 240/2006 περί θεσπίσεως γενικού πλαισίου ενημέρωσης και διαβούλευσης των εργαζομένων, σύμφωνα με την Οδηγία 2002/14/ΕΚ; Νόμος 1387/1983 για τις ομαδικές απολύσεις; Νόμος 3863/2010: Νέο σύστημα κοινωνικής ασφάλισης και άλλες διατάξεις. Ρυθμίσεις για τις εργασιακές σχέσεις

Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

- Law 4738/2020, Article 39, para 5, point b: 'Content of the rehabilitation agreement' -Law 4601/2019: Articles 1-5, 140-147; Law 4472 / 2017: Article 17; PD 178/2002 : Articles 2, 8 and 9 of PD 178/2002; 1 and 4 of PD 240/2006; 3 and 4 of Law 1387/1983; 74 of Law 3863/2010.

Description

With regard to restructuring proceedings, art. 39, of Law No. 4738/27.10.2020, “Debt Settlement and Facilitation of a Second Chance” as amended by Law 4818/18.07.2021 provides that the rehabilitation agreement (that is, the pre-insolvency procedure, aiming to the preservation, utilization, restructuring and recovery of the business to financial health, with the ratification of an agreement), cannot affect the right to informing and consulting with employees in accordance with Directive 2002/14/EC (Information and Consultation of Employees) and Directive 2009/38/EC (European Works Council).

The general principles laid down in the existing legislative framework are entirely based on Directive 2002/14/EC which foresees that information and consultation shall cover the undertaking's or the establishment's activities and economic situation; data on employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment; and decisions likely to lead to substantial changes in work organisation or in contractual relations. Information shall be given at such time, in such fashion and with such content as are appropriate to enable employee representatives to conduct an adequate study and prepare for consultation.

Consultation shall take place while ensuring that the timing, method and content thereof are appropriate; at the relevant level of management and representation; on the basis of adequate information supplied by the employer and of the opinion which the employee representatives are entitled to formulate; in such a way as to enable employee representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate; and with a view to reaching an agreement.

Specific provisions are made for an information and consultation process in the case of the transfer or merger of businesses (see protection of employment in business transfers), and in the case of collective dismissals. In the case of collective dismissals, the following is foreseen: before proceeding with collective dismissals, the employer must enter into consultations with the employee representatives in order to investigate the possibility of avoiding or reducing dismissals and their adverse effects. Collective dismissals are those affecting more than six employees in companies with 20 to 150 employees or those affecting 5% of the workforce (and up to a maximum of 30 redundancies) for companies with more than 150 employees.

Prior to implementing the collective redundancies, the employer is obliged to follow special information and consultation procedure set out in the law:

- the duration of the consultation is 30 days (20 days in previous law);
- during the consultations, the employer may submit a social plan for the affected employees. The social plan may include measures for mitigating the consequences of the redundancies for the employees, such as coverage of self-insurance costs, training and outplacement services, utilisation of state programmes against unemployment and possibilities for redeployment.

The employer is also obliged to submit all supporting documentation not only to the employee representatives but also to the Supreme Labour Council (SLC), a special committee within the Ministry of Labour that consists of an equal number of representatives from the state, the employee associations and the employer associations; upon completion of the consultations, the employer must submit the consultation minutes to the Supreme Labour Council: in the event of an agreement, collective redundancies shall be made within 10 days from the date consultation documents were submitted to the SCL; in the absence of an agreement, the SCL, within a 10-day period from the day on which the practices were presented, concludes with a reasoned decision 'whether the employer's obligations to inform and consult the employee representatives and the obligation to notify documents have been respected'. If the decision of the council finds that the employer has complied with its information and consultation obligations, the redundancies can be implemented after a lapse of 20 days from the SCL's decision; if not , the council can either extend consultations or set a deadline for compliance; if the council then finds that the employer has met its obligations, the redundancies can be effected after a lapse of 20 days from the council's new decision. In any case redundancies become effective 60 days after the submission of the consultation minutes to the council.

Commentary

Under the Law (4738/2020) the restructuring process is now the only collective pre-bankruptcy process and, unlike the out-of-court debt settlement mechanism, it can proceed without the debtor's consent. It concerns all persons who carry out business activity, even when there is no present or threatened inability to fulfill, but only the possibility of insolvency, The procedure, without the debtor's consent, can only proceed if there is a suspension of payments. Interesting deviation from the previous regime is the consent of public entities which is presumed as long as, the debtor's confirmed debts do not exceed €15 million, the public entity will not be put in a worse position with the reorganization agreement than it would have been in the event of bankruptcy, and the total of the claims of the public bodies does not exceed the total of the private creditors. As such, the problem of non-consent of the State (mainly due to obstructionism), is dealt with.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Court Other
Involvement (others)	State, Legal entities under public law, Public enterprises, Social Security Institutions, Multimember Court of First Instance, Expert, Special Mandatee from the Insolvency Administrators Registry, Debtor, Creditor
Thresholds	Affected employees: 7 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Greece: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Hungary

Staff information and consultation on restructuring plans

Phase	Act I of 2012 on the Labour Code
Native name	2012. évi I. törvény a Munka Törvénykönyvéről
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Articles 71-75, 262-266, 267 (6)

Description

Employers shall consult the works council prior to passing a decision in respect of any plans for actions and adopting regulations affecting a large number of employees. Employers' actions, in the context of restructuring, mean in particular:

- proposals for the employer's reorganisation, transformation, or the conversion of a strategic business unit into an independent organisation; and
- the introduction of production and investment programmes, new technologies, or the upgrade of existing ones.

The labour code does not detail how the consultation process should be carried out. Regarding the transfer of undertakings (transfer of undertakings is connected to the points above but regulated in a separate Article in the labour code), the labour code stipulates more detailed provisions on staff information and consultation.

Accordingly, the transferring and the receiving employer shall, within 15 days before the effective date of transfer, inform the works council concerning the schedule or proposed date of the transfer, the reasons and the legal, economic and social consequences affecting the employees. Based on this information, within the given timeframe, the

transferring and the receiving employer shall, with a view to the conclusion of an agreement, enter into negotiations with the works council concerning other proposed actions affecting employees. Negotiations shall cover the principles of the actions, the ways and means of avoiding detrimental consequences as well as the means for mitigating such consequences.

The transferring and the receiving employer shall fulfil the above obligation of information and negotiation even if the decision underlying the transfer of employment upon the transfer of enterprise had been adopted by the body or person exercising control over the employer. The employer shall not be excused regarding his/her failure to satisfy the obligation to supply information and hold talks on the grounds that the controlling organisation or person had failed to inform the employer concerning their decision. The employer and the works council may conclude a works agreement. Should this be the case, the agreement may not contain any restrictions concerning the above described provisions on staff information and consultation on restructuring plans stipulated by the legislation.

Regarding collective dismissals, the labour code also stipulates more detailed provisions. If planning to carry out collective dismissals, the employer shall initiate consultation with the works council. Collective dismissals are defined as those affecting at least 10 workers in companies with 21-99 employees, 10% of workers in companies with 100-299 employees, and at least 30 workers in companies with 300 or more employees. If the company has more than one location, the thresholds above apply separately to the various locations, but locations within the same county (e.g. Budapest) shall be calculated on the aggregate. (An addition to Article 71, entered into force on 1 January 2023). The employer shall inform the works council in writing at least seven days before the discussions. Information provided shall cover the following:

- the reasons for the projected collective redundancies;
- the number of workers to be made redundant broken down by categories;
- the number of workers employed in the six-month period before the procedure;
- the period over which the projected redundancies are to be effected, and the timetable for their implementation;
- the criteria proposed for the selection of the workers to be made redundant;
- the conditions for and the extent of benefits provided in connection to the termination of employment relationships, other than what is prescribed in the employment regulations.
- the employer's obligation to consult the works council shall apply until the conclusion of an agreement, or failing this 15 days after the beginning of the negotiations.
- In order to reach an agreement, the negotiations shall, at least, cover:
- the possible ways and means of avoiding collective redundancies;

- the principles of redundancies (that is, the fundamental clauses of the redundancy);
- the means for mitigating the consequences; and
- the reduction of the number of employees affected.

The agreement concluded between the employer and the works council in the course of the negotiations on collective dismissals shall be made in writing, a copy of which shall be sent to the government employment agency.

Commentary

Regarding staff information and consultation, derogations by collective agreement are allowed only to the benefit of workers. The amendment regarding the lower threshold of what constitutes a collective redundancy, in force since 1 January 2023, can be seen as beneficial to employees because it slightly widens the scope of redundancies that fall under the rules of collective dismissals. But the change was not substantial enough to elicit comments or criticism from trade unions, employers or legal experts.

Additional metadata

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

Sources

Citation

Eurofound (2015), Hungary: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Ireland

Staff information and consultation on restructuring plans

Phase	Employees (Provision of Information and Consultation) Act 2006
Native name	Employees (Provision of Information and Consultation) Act 2006
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

3 and 4(c); Schedule 1: 3(a), 3(c)

Description

Under the Employees (Information and Consultation) act 2006, employers must consult with employees on substantial changes in the workplace, including proposals for collective redundancies (at least 5 redundancies in an establishment employing 21-49 employees; at least 10 redundancies in an establishment employing 50-99 employees; at least 10% of employees made redundant in an establishment employing 100 - 299 employees; and at least 30 redundancies in an establishment that employs 300 or more people). Redundancies may not take effect earlier than 30 days after this notification.

For collective dismissal scenarios, the Protection of Employment Acts gives employees a right to consultation - through the prescribed representative channels (for example trade unions and works council) - as well as the employer having an obligation to provide certain information in writing, such as the reasons for the proposed redundancies; the number, and descriptions or categories of employees proposed to be made redundant; the number of employees, and description or categories of those normally employed; the period during which it is proposed to effect the redundancies; the criteria proposed for the selection of the workers to be made redundant; and the method for calculating any redundancy payments. In 2024, these obligations were extended under the Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act

2024 to also encompass “responsible persons”, i.e., a liquidator, a provisional liquidator, a receiver, or any other person appointed by a court to assume full responsibility for the management of a business during liquidation proceedings.

The Information and Communication act provides for information and consultation on the 'situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged in particular where there is a threat to employment' and 'information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations' which includes transfer situations and collective redundancy.

The act applies to all establishments with at least 50 employees.

Schedule 1 of the 2006 Act allows for an information and consultation forum to be set up. This has to be initiated by the staff side. If the employer does not agree to the forum, recourse is available at the labour court to enforce this provision. Forums must consist of at least 3 people but not more than 30.

To activate the information and consultation forum (which is essentially a works council), there must be a written request made by 10% of employees to the employer. If the employer does not adhere to this request, the employees can proceed to the labour court, requesting that there should be negotiations to establish information and consultation arrangements.

Employee representatives, performing their functions under the 2006 act, cannot be penalised for doing so. Such representatives have recourse to the Workplace Relations Commission if they have been penalised in contravention of section 13 of the 2006 act.

In 2018, regulations were amended to include seafarers (who were formerly excluded from consultation rights in the 2006 act).

Commentary

In practice, the consultation process consists of management informing employee representatives of the situation as it pertains at the time. The focus is on consultation rather than on negotiation.

The forum is not considered to be a priority measure for trade unions, as it does not involve trade union negotiation; rather it is a consultation forum of a direct channel between management and employees - and can, in effect, bypass the role of unions.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Other
Involvement (others)	Information and consultation forum
Thresholds	Affected employees: No, applicable in all circumstances Company size: 50 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Ireland: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Italy

Staff information and consultation on restructuring plans

Phase	Law 29 December 1990, n. 428, Provisions for the fulfillment of obligations deriving from Italy's membership of the European Communities; 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; Legislative Decree 6 February 2007, no. 25, Implementation of European Directive 2002/14/EC which sets up a general framework for workers' information and consultation; Law n. 234/2021, art. 1, co. 224
Native name	Legge 29 dicembre 1990, n. 428, Disposizioni per l'adempimento di obblighi derivanti dall'appartenenza dell'Italia alle Comunità europee; 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; Decreto Legislativo 6 febbraio 2007, n. 25, Attuazione della direttiva 2002/14/CE che istituisce un quadro generale relativo all'informazione e alla consultazione dei lavoratori
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Law no. 428/1990, article 47-49; Law no. 223/1991, articles 4 and 24; Legislative Decree no. 25/2007, articles 4 and 8; Law n. 234/2021, art. 1, par. 224

Description

In Italy, there are various cases where the employer is obliged to preventively communicate their restructuring plans.

Legislative decree 25/2007 constitutes the most general source of information rights for employees and their representatives. The decree is the transposition into domestic law of Directive 2002/14/EC on information and consultation rights. Through this directive, the EU legislator establishes a general framework for information and consultation of workers, which aims to promote the participation of workers in decision-making processes regarding employment within the company. The legislative decree 25/2007 is applicable to companies employing at least 50 workers.

The following cases have to go through an information and consultation procedure:

- current and predictable performance of the business and its economic situation;
- employment within the company;
- decisions causing macroscopic changes in the organisation of work or significantly affecting labour contracts.

However, the concrete definition of the locations, times, subjects, methods and contents of information and consultation rights granted to workers are defined by collective agreements.

Remedies for the non-compliance with the decree are of two types:

- the application of a pecuniary sanction of an administrative nature, consisting in the payment of a sum of between €3,000 and €18,000 for each violation;
- the possibility for trade unions to sue the company for anti-union behaviour according to article 28 of law 300/1970 (Workers' Statute).

Special regimes concerning employers' obligations to preventively communicate their restructuring plans are defined in two further cases: transfer of undertakings (law 428/1990) and collective dismissals (law 223/1991).

In cases of collective dismissals (that is the dismissal within 120 days of more than 5 workers in companies with more than 15 employees) the employer must follow a specific procedure, preventively informing employee representatives (RSA or RSU) of the company and the most representative trade unions. The legislation requires employers to inform the workers concerned in writing.

The information obligation concerns the reasons that prevent the adoption of measures alternative to dismissal and any measures planned to reduce their social impact. At the request of the trade union, communication must be followed by a joint examination, at the

end of which the parties can reach an agreement which might identify, among other issues, the criteria for choosing workers to be dismissed.

The legislation specifies a maximum consultation period of 45 days. The consultation period can be extended on initiative of the territorial labour inspectorate for further 30 days if the parties fail to reach an agreement. After this maximum period of 75 days, the employer can proceed to collective dismissals. Simultaneously with the dispatch of the dismissal letters, the employer must send (according to law 92/2012 within 7 days) to the trade unions and the territory labour inspectorate a communication with the names of the dismissed workers and details concerning the modalities of application of the selection criteria. Employers shall detail the reasons why, based on the application of the criteria set out in the union agreement or, in the absence thereof, in the law, they have decided to dismiss those specific workers and not their colleagues. Employers may provide a comparative framework of all job positions in the company.

According to Art.1, Paragraph 224 of Law. 234 of 30 December 2021, in order to ensure the safeguarding of the employment and productive fabric, employers intending to close a location, plant, branch, office, or independent department located in the national territory, with the definitive cessation of its activity and the dismissal of no less than 50 workers, are required to provide written notification of their intention to close to the company trade union representatives or the unitary trade union representation. This should also be communicated to the local branches of the most nationally representative trade union associations by category, the relevant regions, the Ministry of Labour and Social Policies, the Ministry of Economic Development, and the National Agency for Active Labour Policies (ANPAL). This communication can be made through the employers' association to which the company belongs or to which it gives a mandate.

Commentary

Company-level agreements may specify procedures in relation to collective redundancies. The tendency in Italy is towards negotiations between the partners with a view towards ending up with an agreement on possibilities to avoid all, or part of, the redundancies, and can also bear on the setting up of accompanying measures in order to facilitate conversion and requalification.

Additional metadata

Cost covered by	None

Involved actors other than national government	Trade union Works council Other Employer organisation
Involvement (others)	Territory labour inspectorates
Thresholds	Affected employees: 5 Company size: 16 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Italy: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Latvia

Staff information and consultation on restructuring plans

Phase	Labour law
Native name	Darba likums
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

10, 11, 104, 105, 106, 107, 117, 120

Description

Employee representatives (trade unions or works councils) have a general right to receive timely information and to consult with the employer before the adoption of decisions that may affect the interests of employees, in particular their salary, working conditions and employment with the company.

In the case of a transfer of an undertaking, both the transferor and the acquirer have to inform their employee representatives (or their employees if employee representatives do not exist) about the transfer date or the expected transfer date (before the transfer takes place), the reasons behind it and the consequences of the transfer, as well as the measures which will be taken with respect to employees. The transferor of an undertaking has to inform the employees no later than one month before the transfer of the undertaking, while the acquirer of an undertaking no later than one month before the transfer of the undertaking starts to directly affect the working conditions and employment provisions of his or her employees.

If any organisational, technological or social measures will be implemented in relation to the employees, the transferor and acquirer shall start consultations with employee representatives no later than three weeks in advance in order to reach agreement on

these measures.

The transferor and/or acquirer of an undertaking or an employer carrying out collective redundancy have to consult with their employees, but the extent to which the employer may choose any measures is not set by law.

In any case, if the employer chooses dismissal rather than other measures, it has to explain the reasons behind it.

The legislation specifies that in case of collective redundancies (within 30 days, dismissals of at least 5 workers in companies with 21-49 employees, at least 10 dismissals in companies with 50-99 employees, at least 10% in companies with 100-299 employees or at least 30 dismissals in larger firms) employers consult with trade unions (if any exist in the workplace) or with elected employee representatives. Employers have a legal obligation to start consultation before making a public announcement.

The rules on collective redundancy do not apply to public administration employees.

During consultations regarding collective redundancies the employer and the employee representatives shall examine all possibilities of avoiding the collective redundancy or of reducing the number of employees to be made redundant and how to alleviate the effects of such redundancy by taking social measures that create the possibility to further employ or retrain the employees made redundant.

Any reduction of the number of employees (including collective redundancy) shall be sufficiently justified by urgent commercial, organisational, technological or similar measures to be implemented in the undertaking.

Dismissal cannot be implemented prior to the lapsing of a 30 day period after the public authorities have been informed. In practice, this means that 30 days is considered the minimum period of consultation. In exceptional cases the State Employment Agency may extend the time limit to 60 days. Law on the Management of the Spread of COVID-19 Infection allows that the State Employment Agency may shorten the time period for a notification. In that case the State Employment Agency must immediately notify in writing an employer and representatives of employees of the shortening of the time period. This norm will expire on 1 January 2024.

The legislation states that employers must consult on the number of employees planned to be dismissed, the social guarantees for these employees, procedures for collective dismissal, and possible ways of minimising redundancies.

Commentary

In practice, consultation rarely happens.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council
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), Latvia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Lithuania

Staff information and consultation on restructuring plans

Phase	Labour code No XII-2603, Law on insolvency of legal entities No XIII-2221
Native name	Darbo kodeksas Nr. XII-2603, LR juridinių asmenų nemokumo įstatymas Nr. XIII-2221
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Labour code (203, 206, 207, 209), Law on insolvency of legal entities (3, 104)

Description

The Labour code provides that employees have the right, through the works council, to be informed and to participate in consultations with employers and their representatives on matters related to the implementation and protection of the labour, economic and social rights, and interests of employees (article 203).

With respect to staff information and consultation for business transfers as well as for collective redundancies, the Labour code states the obligation of the employer with an average of 20 employees or more to inform employees and to consult with them in the confirmation of local labour legal norms (for instance, work rules, the introduction of new technologies and the protection of employees' private life). Employee representatives need to be informed about these forthcoming decisions before their confirmation and they have the right to submit remarks and proposals as well as to initiate consultations (article 206).

Before taking a decision on collective redundancies, the employer must inform and hold consultations with the works council. At least 7 working days before the beginning of the planned consultation, the employer must provide the works council with written

information on (article 207):

- the reasons for the planned dismissal;
- the total number of employees and the number of redundancies, by category;
- the period during which the employment contracts will be terminated;
- the selection criteria for redundancy;
- the terms of employment contract termination and other relevant information.

The employer must hold consultations for at least 10 working days from the first day of consultation unless the works council agrees to a different term. On the basis of the information provided, consultations with the works council shall begin within five days of receipt of the information, with the aim of agreeing on which methods and measures can be used to avoid the collective redundancy or to reduce the number of redundancies, as well as to mitigate the consequences of this redundancy through additional social measures. Consultations must be aimed at coming to an agreement between the employer and the works council. The employer-level trade union must be informed by the works council about the course of consultations and the employer-level trade union is entitled to express its opinion to the works council and the employer (article 207).

If an employer has violated the obligations of information and consultation, the works council or the trade union shall be entitled to initiate a labour dispute on rights within two months of finding out about the violation. The State Labour Inspectorate shall control how employers fulfil the obligation of informing and consulting employees (article 209).

The Law on insolvency of legal entities of the Republic of Lithuania (article 3) stipulates that the insolvency process must be based on the principle of transparency. The principle of transparency means that information on insolvency proceedings must be made available in a timely manner to all the employees involved in the insolvency proceedings in order to ensure the protection of their rights and legitimate interests, except for the protection of legally protected personal data or commercially confidential information (trade secrets). The law also provides guidelines for the company restructuring plan. According to article 104 of the law, the restructuring plan needs to include the following:

- a short description of the legal entity (including the nature of activities, the list of assets held and the number of employees);
- reasons behind the financial difficulties of the legal entity and the extent of difficulties;
- purposes of restructuring of the legal entity;
- a period of implementation of the restructuring plan;
- a list of creditors specifying: where the creditor is a natural person – the name, surname and address of the residence; where the creditor is a legal person – the name

and address of the registered office and/or place of operations; the amount of claims, the time limits for the settlement thereof and measures of securing thereof;
- a list of creditors affected by the restructuring plan, by groups of creditors;
- guarantees and other safety measures to secure the discharge of obligations which the company has granted to third parties (with indication of the third parties, the credits granted to third parties and the amount of guarantees and other safety measures);
- information related to the cases in which financial claims have been entered against the legal entity;
- information on cases in which property claims have been filed against the legal entity;
- a list of the debtors of the legal entity (as for those with pending legal proceedings, the name and address of the debtor should be provided if he or she is a natural person; or the name, legal entity's identification number and registered office address should be provided if he or she is a legal person), amount claimed, time limits for discharge and methods of securing the discharge;
- creditors' assistance in overcoming financial difficulties;
- information on new financing, indicating the amount and terms of anticipated loans;
- a comparison of possibilities for satisfying creditors' claims in terms of value in cases of restructuring and bankruptcy of the legal entity;
- assessment of the economic and legal feasibility of the measures provided for in the restructuring plan;
- an estimate of the costs of administering the restructuring process;
- a business plan of the legal entity, specifying measures to overcome financial difficulties;
- other information which the head of the legal entity deems to be relevant.

Labour relations on ships are regulated by Lithuanian labour law provisions if these ships sail under the flag of the Republic of Lithuania.

Law No XIV-453 of 29 June 2021 (came into force since 15th of July, 2021) establishes that similar provisions under Article 208 of the Labour Code apply not only in the case of a transfer of a business or a part of a business, but also in the case of a restructuring case against an employer opened after 14 July 2021. The same law also adds to the LC an obligation for employers to provide information to the works councils for consultation on "ways and means envisaged to avoid or mitigate negative legal, economic and social consequences for employees".

Law No XIV-450 of 29 June 2021 (came into force on the 15th July, 2021) detailed (supplemented) the content of the Restructuring Plan (Art.140 (2)), by providing that it shall include:

- a list of creditors who are not affected by the restructuring plan, by group of creditors, containing information on how creditors are affected and/or why they are not affected by the restructuring plan;
- the overall effects of the structural reorganisation of the work organisation: information on employees, including the number of redundancies to be made and the working conditions of employees;
- name of the legal entity, code;
- the procedures for the provision of information and consultation of workers' representatives as laid down in the Labour Code.

Commentary

Although the Law on insolvency of legal entities provides a detailed list of guidelines for the enterprise restructuring plan, it does not foresee any consultation with works councils or trade unions on these plans.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Other
Involvement (others)	State Labour Inspectorate
Thresholds	Affected employees: 10 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Lithuania: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Luxembourg

Staff information and consultation on restructuring plans

Phase	Labour Code
Native name	Code du travail
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Art.L.414-4, Art.L.414-5, Art.L.414-6, Art.L.423-3, Art.L.432-25

Description

The employer must inform and consult employee representatives before any important decision on economic or financial decisions which could have an impact on the structure of the firm or on the level of employment, as well as on any changes in technology, equipment and working methods and on the impact of these changes on working conditions in the company.

This includes measures such as vocational training and retraining planned to be introduced by the employer. The employer has to inform staff representatives about the overall operation and situation of the company, including the recent and prospective evolution of the firm's activity and its economic situation. This information must be provided by companies on a monthly basis at a joint committee (in company's with 150 or more employees) or during regular meetings with management and employee representatives.

More detailed information has to be provided to staff representatives on an annual basis in public limited liability companies (Société Anonyme, SA). The employer must inform and consult with staff representatives twice a year regarding any forecasted developments of employment in the company and on precautionary measures taken by the company in

order to tackle threats to employment. Moreover, the manager has to inform and consult the joint committee (comité mixte), once a year at least, about the company's current and future labour force needs and about vocational training and retraining.

Employee representatives must be informed in good time ahead of any decision to enable them to formulate an opinion. Where employee representatives adopt an opinion and communicate this to central management, management must respond, also 'in good time', with an explanation of their proposed decision. Any company which, despite its legal obligation, has not yet set up a staff delegation must first hold related elections before initiating any collective redundancy procedure.

The employer can refuse to inform or consult employee representatives if, on objective criteria, this might be severely detrimental to the business. Such a decision can be challenged by means of an appeal to the administrative authority.

There is a specific consultation in case of collective dismissal. An employer who intends to dismiss, for reasons that have nothing to do with the employee's person, at least 7 employees over a period of 30 days or at least 15 employees over a period of 90 days must apply a collective redundancy procedure.

The collective redundancy procedure contains 4 main stages:

- inform the National employment agency (ADEM) and the employee representatives or the employees directly if the business regularly employs fewer than 15 people;
- negotiate a redundancy plan;
- implement the redundancy plan;
- request tax exemption for voluntary departure or severance pay, if applicable.

Before initiating a collective redundancy, the employer must begin negotiations with the staff representatives in order to establish a redundancy plan for the concerned employees.

Commentary

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) abolished joint committees with effect from the date of the next workplace elections which were scheduled in 2019. Therefore, the process described in article L.423-3 of the Labour Code was abolished too. From the 2019 social elections forward, the tasks and duties assigned to joint works committees were 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.

Additional metadata

Cost covered by	None
Involved actors other than national government	Employer organisation Trade union Works council Public employment service National government
Involvement (others)	Staff delegation (from 2015 onwards)
Thresholds	Affected employees: 7 Company size: 7 Additional information: There are two company eligibility thresholds: - at least 7 employees over a period of 30 days; - at least 15 employees over a period of 90 days.

Sources

Citation

Eurofound (2015), Luxembourg: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Netherlands

Staff information and consultation on restructuring plans

Phase	Works council act; Collective Redundancy Notification Act
Native name	Wet op de ondernemingsraden (WOR); Wet Melding Collectief Ontslag (WMCO)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Articles 25, 26, 31, 35b, and 35c of Dutch Works council act; Articles 3 and 4 of Collective Redundancy Notification Act

Description

Obligation to consult the works council and receive advice

The employer has the obligation to inform a works council (Ondernemingsraad) and give it the opportunity to express its advice regarding the employer's intention to restructure, at such a moment in time that the works council's advice can still have a substantial effect on the employer's decision. The Works council act distinguishes the following types of restructuring:

- transfer of control over the company or a part thereof;
- establishing, or taking over or disposing of control over another undertaking as well as entering into, making a significant change in or terminating sustainable cooperation with another enterprise, including entering into it, to a significant extent modify or discontinue an important financial participation due to or for such an enterprise;
- termination of the company's business or an important part thereof;
- significant reduction, expansion or other change in the company's activities;

- significant change in the organisation of the company or in the division of decision-making power within the company;
- change of place where the company carries out its activities;
- group-wise recruitment or lending of labour.

The employer's request must include information on proposals for reorganisation and redundancies, reasons for these, possible alternatives, consequences for employees and measures taken to limit the consequences. The works council is entitled to at least one consultation meeting with the employer. In principle, a works council should be installed if there are 50 or more employees.

Timeliness, completeness and correctness of the information provided to the works council is particularly relevant in cases of collective dismissals: at least 20 dismissals in one or more plants of the same company, within one and the same region of the public employment service (6 regions in the Netherlands), and within a period of 3 months.

If the advice is not followed by the employer, the works council can challenge the restructuring decision (and possible implementation measures already undertaken). Jurisprudence over the last 35 years shows that employers that have not taken their information and consultation duties seriously run the risk that the court rules the restructuring operation invalid. However, given sufficient consideration to the advice, the managerial prerogative prevails.

The works council in smaller companies

In smaller companies employing between 10-50 employees, the Works council act obliges the employer to consult the mini works council (if it exists) or the staff meeting on any decision that could lead to job loss or a significant change in the employment, labour conditions or working conditions of at least one-fourth of the persons employed in the company. Contrary to the case of works councils, decisions cannot be challenged in court.

If restructuring results in 20 or more dismissals, the Collective Redundancy Notification Act applies. This act stimulates the information and consultation (both with the works council and the unions) procedure because the necessary dismissal permit will not be granted by the public authorities if the information and consultation provisions are violated.

Commentary

The main act for informing and consulting employees is the Works councils act. Compared to most other EU countries, works council rights are strong in the Netherlands.

The employer's obligation to notify the trade union and works council if a collective dismissal is about to take place and in other cases of restructuring is commonly accepted by the social partners. When the measure was introduced in 2012, however, some concerns were expressed by employer organisations about possible legal uncertainty for employers in cases of collective dismissal. The terms and conditions that pertain to whether a permit for collective dismissal is granted by the public employment service are usually a more contested topic than the actual obligation to notify.

The Collective Redundancy Notification Act can partly be seen as a leverage instrument to stimulate information and consultation of works councils in the case of collective dismissals: the public authorities will not issue the necessary permits if information and consultation with the unions and/or the works council have been violated.

See also 'Staff information and consultation on business transfers' for conditions of a specific agreement between unions and employer organisations.

Additional metadata

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

Sources

Citation

Eurofound (2015), Netherlands: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Norway

Staff information and consultation on restructuring plans

Phase	Working environment act
Native name	Arbeidsmiljøloven
Type	Staff information and consultation on restructuring plans
Added to database	29 June 2015
Access online	Click here to access online

Article

Chapter 8, 15-2

Description

The working environment act has regulations on information, cooperation on codetermination on reorganisation of operations for companies with at least 50 employees. The management of the enterprise shall discuss the following with the shop stewards as early as possible:

- information and consultation concerning the current and expected workforce situation in the undertaking, including any cutbacks and the measures considered by the employer,
- information and consultation concerning decisions that may result in considerable changes in the organisation of work or conditions of employment.

In case of collective dismissals (at least 10 dismissals within 30 days), employers are required to enter consultations with the employees' elected representatives as soon as possible.

The consultations should cover reaching an agreement to avoid collective redundancies or reducing the number of persons made redundant, and addressing the adverse effects including possible social welfare measures for redeployment or retraining. If the company

or part of it is to be closed, consultations shall cover the possibility of continuing to run the company, including the possibility of transferring the company to the workers. All necessary information must be supplied by the company, including the grounds for the dismissals, the number of employees, categories of workers, the number of employees normally employed, groups of employees normally employed, the period during which such redundancies may be affected, the criteria for selection of those made redundant and criteria for calculation of extraordinary severance pay, if applicable.

Information shall be provided in such a way that it is possible for the elected representatives of the employees to familiarise themselves with the matter, make appropriate investigations, consider the matter and prepare any consultations. The information should be provided as early as possible, and at the same time as the employer calls a consultation meeting. Consultations shall be based on information provided by the employer and take place at the level of management and representation appropriate for the matter concerned, in an appropriate manner and with appropriate content. The consultations shall be conducted in such a way that it is possible for the elected representatives of the employees to meet the employer and receive a reasoned response to any statements they may make. Consultations shall aim to reach an agreement.

The employees' representatives shall have the right to receive expert assistance. The act does not specify what kind of experts can be used, but expenses by using such expert assistance is not to be covered by the employer.

Commentary

The consultation will normally be carried out via shop stewards (company level trade unions). Minutes of the consultation meetings must be taken and signed by both parties.

The company union may ask the regional or national trade union for assistance, or an expert.

In companies bound by collective agreements, there are regulations on information, consultation and codetermination covering all companies. These regulations are mainly to be found in basic agreements and cover all companies bound by sector level collective agreements.

Additional metadata

Cost covered by None

Involved actors other than national government	Public employment service Regional/local government Trade union Works council Other
Involvement (others)	Experts; Innovation Norway
Thresholds	Affected employees: 10 Company size: 10 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Norway: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Poland

Staff information and consultation on restructuring plans

Phase	Act of 07.04.2006 on informing and consulting employees; Act of 23.05.1991 on trade unions; Act of 13.03.2003 on special principles of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'
Native name	Ustawa z dnia 07.04.2006 r. o informowaniu pracowników i przeprowadzaniu z nimi konsultacji; Ustawa z dnia 23.05.1991r. o związkach zawodowych; Ustawa z dnia 13.03.2003 r. o o szczególnych zasadach rozwiązywania z pracownikami stosunków pracy z przyczyn niedotyczących pracowników -'ustawa o zwolnieniach grupowych'
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Article 13 of the Act on informing and consulting employees; Article 28 of the Act on trade unions; Article 2 of the Act on special principles of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'

Description

According to the law, a special body for informing and consulting employees (works council) can be established in companies with more than 50 employees, but only upon written request of 10% of the workforce. This means that without employees' initiative the employer is not legally obliged to establish such a body. The works council may coexist with other forms of employee representation and it does not replace the trade union (if such exists).

Employers shall provide the works council with information on:

- recent and probable developments of the employer's activities and economic situation;
- the situation, structure and probable developments of employment, and any measures envisaged with a view to maintaining current staff levels;
- measures likely to lead to substantial changes in the work organisation or contractual relations.

Employers shall undertake consultation with the works council on such matters with a view to reaching an agreement between the works council and the employer.

Trade unions present in the company have the right to obtain information and to be consulted, yet the scope of this information is limited to issues which are necessary to conduct trade unions' activity (working conditions and wages) and/or are related to extraordinary situations (transfer of undertaking, collective dismissals). Legislation is more detailed in regard to collective dismissals (within 30 days, at least 10 dismissals in companies with 20-99 employees, or at least 10% of workforce in companies with 100-299 employees, or 30 dismissals in larger companies).

An employer must provide specific information about the planned dismissals to the trade union representatives or, in the absence of trade unions, to employees' representatives. This should occur in advance - at least at the same time as the employment office is informed - so that the representatives of trade unions or employees are able to submit their proposals as part of the consultation process. For instance, they might propose measures to avoid collective redundancies or to reduce their consequences, for example training of workers.

The consultation shall specifically cover measures to avoid collective redundancies or reduce their scale, as well as support measures for the redundant workers, and specifically, opportunities for the employees to be made redundant to qualify for other jobs or to be retrained, or to secure other employment.

The employer is obliged to notify the company trade unions in writing about the following:

- the reasons for the planned collective redundancies;
- the estimated number of employees to be dismissed and professional groups they belong to;
- the period over which the planned redundancies are to be implemented;
- the criteria proposed for the selection of the employees to be made redundant;
- the sequence of the redundancies;

- the way of resolving employment issues related to the redundancies and the proposed support measures for the affected employees (for example training);
- if any financial considerations are involved, the method for calculating the amounts.

The employer is obliged either to conclude an agreement with trade union representatives (within 20 days following the notification) or - if there is no trade union in the company - to issue a dismissals regulation after consultations with employees' representatives.

Commentary

In practice, the role of the works council in the restructuring process in terms of information and consultation is marginal. This is due to the weakness of the legislation in this area, which casts doubt on the correct implementation of Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community. The social partners do not raise this issue because both sides are rather sceptical about the relevance of works councils. Employers generally see them as a disruption to management, and unions often see them as a threat to themselves. There are, however, some initiatives by NGOs to support works councils.

It is important to stress that the number of works councils in Poland is extremely low compared to the number of companies with 50 or more employees. Moreover, there is in many cases there is no information on whether they continue to operate for successive terms.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council
Involvement (others)	None
Thresholds	Affected employees: 10 Company size: 20 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Poland: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Portugal

Staff information and consultation on restructuring plans

Phase	Labour Code (Law 7/2009 of 12 February)
Native name	Código do Trabalho (Lei 7/2009 de 12 de fevereiro)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

299, 300 and 360-363

Description

The employer must notify in writing, for information and consultation, the works council (or in its absence the inter-union committee or the trade union committees in the enterprise) at the beginning of the restructuring procedure (collective dismissal or other) about the intention to reduce or suspend work.

In detail, the written notification shall include:

- Technical, economic or financial grounds of the measure;
- Workforce, broken down by sectors (those that are to be affected by the planned restructuring);
- Criteria for selection of employees facing restructuring;
- Number and professional categories of employees facing restructuring;
- Period of implementation of the measure;
- Training to be attended by the workers during the reduction or suspension, if applicable.

The scope of information is particularly important in cases of collective redundancies (the dismissal of at least two workers in micro and small companies, and at least five

workers in larger companies). In such cases the written notification shall also include:

- the reasons for the collective dismissal;
- the organisational chart of the enterprise by sector;
- the criteria used in the selection of employees to be dismissed;
- Number and professional categories of employees facing collective dismissal;
- Period of implementation of the collective dismissal;
- The method of calculation of overall compensation granted to the employee in addition to redundancy payment.

A copy of the notification must be sent to the labour authority (Directorate-General for Employment and Labour Relations/Direção-Geral do Emprego e das Relações de Trabalho - DGERT). The information and consultation process starts five days after the notification and is intended to be used to consider other measures aimed at reducing the number of workers to be dismissed, notably:

- suspension of the employment contracts;
- work reduction;
- professional retraining and reclassification;
- pre-retirement and early retirement.

However, in all cases of restructuring, and not only in instances of collective dismissals, the information and consultation process shall be carried out with a view to reach an agreement with the workers' representative structures on the method, scope and duration of measures to be adopted.

The minutes of the negotiation meetings shall contain the matters agreed upon, the divergent positions, and the opinions, suggestions and proposals made by each party.

Whether an agreement is reached or not, the employer must notify in writing each employee about the measure to be applied, its grounds and the starting and ending dates of its application.

The employer must send to the works council and to the ministry responsible for social security the minutes and a document with the names of the employees, their address, date of birth and date of admission in the company, social security situation, occupation, category and wage, and also the measure individually adopted, including the starting and ending dates of its application.

If no minutes of the negotiation exists, the employer sends to the entities mentioned above a document that justifies and describes the agreement, or the opposing reasons

and the final position of the parties.

If collective dismissals occur, the employer must notify each employee, in writing, of its final dismissal decision, indicating the reasons for the dismissal and the planned date of termination of the contract, and no more than 15 days after the initial communication. The contract of employment will only terminate after the expiry of the notice period, the duration of which varies between 15 and 75 days according to the employee's seniority and is identical to the notice period for individual dismissals.

A copy of the initial notification of the proposed collective dismissal to the workers' representatives shall also be sent to the relevant service of the Ministry Labour, Solidarity and Social Security (Ministério do Trabalho, Solidariedade e Segurança Social - MTSS). A representative from the ministry will take part in the negotiation procedure to ensure the material and procedural regularity of the process and promoting conciliation. In addition, at the time the final decision is communicated to the MTSS, as well as information on each employee affected by the collective dismissal (including their name, address, date of birth, hiring date, social security situation, profession, category, salary, the measures decided and their planned implementation date).

Commentary

According to the unions, although the law states that a consultation period should be adhered to and this should involve all parties, in practice the power to make decisions belongs exclusively to management.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Employer organisation Other
Involvement (others)	Directorate-General for Employment and Labour Relations (Direção-Geral do Emprego e das Relações de Trabalho -DGERT); Ministry of Labour, Solidarity and Social Security (Ministério do Trabalho, Solidariedade e Segurança Social - MTSS)

Thresholds	Affected employees: 2 Company size: 2 Additional information: No, applicable in all circumstances

Sources

Citation

Eurofound (2015), Portugal: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Romania

Staff information and consultation on restructuring plans

Phase	Labour Code, Law no. 53/2003, republished in the Official Gazette of Romania no. 345 of 18 May 2011
Native name	Codul muncii, Legea nr. 53/2003, republicată în Monitorul Oficial nr. 345 din 18 mai 2011
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Labour Code, Law no. 53/2003 [Codul muncii, Legea nr. 53/2003] - 68-74

Description

Employers have the obligation to inform the trade union or the employee representatives, in due time, of restructuring plans.

The rules of these consultations are stipulated in the law and, in addition, negotiated in company or sectoral collective bargaining agreements.

The purpose of the procedure is to alleviate the consequences of collective redundancies (i.e. dismissal of at least 10 employees in companies with 21-99 workers, at least 10% of staff in companies with 100-299 workers or at least 30 employees in larger firms of at least 300 employees) by social measures such as support for professional requalification and retraining of the dismissed employees. Consultation must be held before the decision to restructure is taken, so that the trade union is given the opportunity to make suggestions as to how redundancies can be avoided or reduced.

If the employer intends to proceed with collective redundancies, he/she must initiate consultations in due time to reach an agreement with the trade union or the

representatives of the employees regarding, at least:

- methods and means to avoid collective redundancies or reduce the number of employees to be dismissed;
- measures to moderate the consequences of layoffs through social measures such as support for vocational requalification or readjustment of the dismissed employees.

Before consultations take place, in order to allow the trade union or the representatives of the employees to formulate suggestions in due time, the employer must provide, in writing, all the relevant information concerning:

- total number and categories of employees;
- reasons causing the contemplated redundancy;
- number and categories of employees to be affected by redundancy;
- criteria taken into account, under the law and/or collective agreements, to establish priority on the redundancy list (only subsequent to adequate performance evaluation);
- measures taken into account to limit the number of workers dismissed;
- measures taken into account to alleviate the consequences of redundancy, and the severance pay for the workers made redundant, under the law and/or the applicable collective agreement;
- the date when or the period of time during which the redundancy process is planned;
- the term within which the trade union or the representatives of the employees, as appropriate, may make proposals as to how mass dismissals can be avoided or the number of redundancies may be diminished.

The trade union or representatives of the employees may suggest measures to avoid redundancy or to diminish the number of workers to be made redundant, within 10 calendar days of the employer's notification.

The employer must examine the proposals received from the union within five calendar days, make a decision and notify the union of the decision in writing. This written notice must include the justification of the decision.

If, after the consultations with trade unions or employee representatives, the employer decides to issue the collective dismissals, he/she has the obligation to notify, in writing, the local labour inspectorate (Inspectoratul teritorial de muncă) and the local employment agency (Agenția teritorială de ocupare a forței de muncă), at least 30 days before the date of the dismissal decision. The notification must also include the results of the consultations with the trade union or employee representatives. A copy of the notification must be sent to the trade unions or employee representatives.

If, within 45 calendar days after a collective dismissal, the employer resumes operations, he/she must notify the dismissed employees of this. Within this time span, the dismissed employees have a priority right to reemployment without having to undergo an exam, a competition process or a probation period. The employee must respond to this reemployment offer within five days after receiving the notice. Only if an employee refuses or fails to answer, the employer has the right to hire another person.

Commentary

Among the information that the employer shall give the representatives of the employees before the beginning of the restructuring process, there are the reasons (justifications) for the planned dismissal. The purpose of the procedure is to alleviate the consequences of dismissal through social measures like support for professional requalification and retraining of the dismissed employees, so that they may acquire the necessary knowledge and skills to take on new jobs. Theoretically, at the moment when the consultation takes place, the decision on how to execute the restructuring is not yet made, so that the trade union has the chance to make suggestions regarding how to avoid dismissals. However, there are no legal sanctions for the employer deciding on collective dismissal measures without including the representatives of the employees. As a result, even if the consultation is purely formal, there are not many things that the employees can do to affect the outcome, as the decision to restructure has already been made.

Additional metadata

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

Sources

Citation

Eurofound (2015), Romania: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Slovakia

Staff information and consultation on restructuring plans

Phase	Labour Code
Native name	Zákonník práce
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

22, 73, 237, 238, 241

Description

In general, the employees' representatives (trade unions and works councils) are entitled to obtain information and be consulted on measures important for the future development of the company and relevant number of employees. If there are no employees' representatives, the employer must inform and consult employees directly.

Employers shall consult in appropriate time the employees' representatives on important changes concerning the employees. 'Important changes' refer to, for instance, any collective dismissal (dismissals of at least 10 employees in companies with 21-99 workers, at least 10% of staff in companies with 100-299 workers, or at least 30 employees in companies with 300 or more workers, within 30 days), the transfer of employees to another employer, the announcement of bankruptcy or a court decision about internal restructuring, organisational changes, closure, integration, merging, splitting, changing the legal form of the employer, decisions that may lead to fundamental changes in the work organisation or in terms and conditions agreed in employment contracts, important issues of company social policy, measures to improve workplace health and the working environment.

The Labour Code expressly regulates that specific information on redundancies given to the employees' representatives is to be available before collective redundancies can start. This information must include: reasons for the planned redundancies, number and composition of redundant employees and the overall workforce, period over which the redundancies should take place, and criteria for selecting employees to be made redundant. The employer should provide the reasons for the restructuring but is not obliged to justify these reasons and give reasons for the decision to dismiss employees. Employees' representatives can ask the employer to modify the plans, but the employer is not obliged to do so.

Information should be provided to the employees' representatives in appropriate time. This is usually a few weeks before the execution of the planned organisational changes, in case of insolvency within 10 days and in case of collective redundancies at least 30 days before implementation begins. The consultation process begins once the employer has decided which measures will be adopted and which employees will be dismissed.

The employer may refuse to provide information which could harm the business of the employer or may require that this information be regarded as confidential.

Commentary

No information is available about discrepancies in implementation of this regulation in practice.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council Other
Involvement (others)	Employees if there are no employees´representatives at the employer.
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), Slovakia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Slovenia

Staff information and consultation on restructuring plans

Phase	Workers Participation in Management Act (ZSDU); Employment Relationship Act (ZDR-1); Trade Secrets Act (ZPosS)
Native name	Zakon o sodelovanju delavcev pri upravljanju (ZSDU); Zakon o delovnih razmerjih (ZDR-1); Zakon o poslovni skrivnosti (ZPosS)
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Articles 76 and 99 of the Employment Relationship Act (ZDR-1); Articles 91-98 of the Workers Participation in Management Act (ZSDU); Articles 4 and 7 of the Trade Secrets Act

Description

The employer is obliged to consult the works council about the company status, e.g. changes in the legal situation, the sale of the company or its major part, the closure of the company or its major part, major changes in ownership and in corporate governance. It also applies to staff issues concerning 10% or more of all company employees, e.g. the need for new employees, allocation of posts, the movement of a significant number of employees to outside the company or from one place to another, the adoption of additional pension, disability and health insurance schemes, in-company workforce reductions and the adoption of general rules of disciplinary accountability. The employer has to give the works council the necessary information at least 30 days before taking the decisions, and organise joint consultations at least 15 days before taking the decisions.

Additional information is also required in cases of collective dismissals. The works council can reject the employer's proposal to reduce the size of the workforce if it does not include a draft programme for the solution of the problem of redundancies in accordance with applicable employment regulations, or if the reasons for the decision to reduce the size of

the workforce are not well-grounded. The works council has to reject the proposal within eight days after receiving the information from the employer.

The employer cannot adopt the decision if the works council rejects the proposal within eight days. If the works council does not answer within eight days or if the rejection is unfounded, it is considered as consent.

The employer also has to consult the relevant trade union representative about the proposed criteria for the determination of redundant workers and, in the framework of the elaboration of the dismissal programme for redundant workers, about the possible ways of avoiding and limiting the number of dismissals and the possible measures for the prevention and mitigation of harmful consequences. The employer must at the earliest possible time inform the trade unions at the employer about the layoffs in writing. The communication must include:

- the number and the categories of all employed workers;
- the foreseen categories of redundant workers;
- the foreseen term in which the work of workers will no longer be needed;
- the proposed criteria for the determination of redundant workers.

Trade unions must also be involved in cases involving a business transfer. Employers must inform and consult the labour representatives, but are not obliged to accept the proposals of either the trade unions or the works councils. However, employers must have the consent of the trade union, if they want to establish a list of redundant workers according to their criteria and not the ones set out in the collective agreement.

Workers' right to be informed and consulted passes on to workers' representative in companies employing less than 20 workers with the active voting right. Workers' representatives have the same rights and obligations that relate to the works council.

The Trade Secrets Act stipulates that trade secrets disclosed during the obligatory consultations with the trade union, works council or labour representative are legally obtained. It does not constitute unlawful disclosure of trade secrets if a worker gives information to his or her representative for protecting the interests of worker(s). The exemption applies to the exercise of workers' rights, which must follow the rules on the activities and protection of trade union representatives.

Commentary

No information available.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council
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), Slovenia: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Spain

Staff information and consultation on restructuring plans

Phase	Law 10/1997 of 24 April on European Works Councils; Statute of workers' rights; Law 12/2001 of 9 July on urgent measures to reform the labour market, to increase employment and to improve its quality; Royal Decree 801/2011 of 10 June that enacts regulation of the procedures of employment regulation and administrative measures in cases of collective relocation; Law 3/2012 of 6 July on urgent measures to reform the labour market; Royal Decree law 11/2013 for the protection of part-time workers and other urgent measures in the economic and social field
Native name	Ley 10/1997, de 24 de abril, sobre derechos de información y consulta de los trabajadores en las empresas y grupos de empresas de dimensión comunitaria; Estatuto de los Trabajadores (ET); Ley 12/2001 del 9 de julio de medidas urgentes para la reforma del mercado de trabajo para el incremento de empleo y para la mejora de su calidad; Real Decreto 801/2011, de 10 de junio, por el que se aprueba el Reglamento de los procedimientos de regulación de empleo y de actuación administrativa en materia de traslados colectivos; Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado de trabajo; Real Decreto ley 11/2013 para la protección de los trabajadores a tiempo parcial y otras medidas urgentes en el orden económico y social
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

Art. 51 Statute of workers' rights (modified by law 12/2001); Art. 18 Law 10/1997; Art. 8, Royal Decree 801/2011; Article 12.4, Law 3/2012; Art. 4, Royal Decree law 11/2013

Description

The European Works Council must be informed and consulted about the financial situation of the company or the group affecting the workers' interests.

Spanish workers' representatives (workers' delegates, working committees or trade unions sections) are also entitled to be informed about the development and prospects of the company's activities regarding employment, especially in the case of subcontracting.

Workers' representatives are also entitled to consultation in the case of restructuring plans. 'Restructuring plan' is not specifically defined in the Spanish legislation. Generally, restructuring plans tend to include the following measures: collective geographic transfer, undertaking transfer and suspension of labour contracts for technical, organisational, productive or economic reasons.

In case of a so-called 'employment regulation' (collective dismissal, temporary dismissal or working time reduction), the employer must provide the labour authority and the workers' representatives with the following documents in the beginning of the consultation process:

- number and professional categories of the workers affected;
- number and professional categories of the workers normally employed during the previous year;
- justification of the measure according to the concurrence of economic, technical, organisation-related or productive causes;
- nominative relationship of workers affected;
- information about the composition of the employees' representative commission;
- in the enterprises with more than 50 employees, an accompanying social plan aiming to mitigate the consequence over the workers affected.

In case of collective transfer, transferor and transferee are required to inform the employees' representatives of the following issues:

- the date or proposed date of the transfer;
- the reasons for the transfer;
- the legal, economic and social implications of the transfer for the employees;
- any measures envisaged in relation to the employees.

If there are no employees' representatives, transferor and transferee must give such information to the workers affected.

In case of transfer, information must be provided before the change of the business takes place. The law also regulates right of information in collective dismissals processes. That is: affecting more than five employees 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 at least 30 employees in companies with more than 299 employees in a period of 90 days. In these cases, the law states that the information must be facilitated in a timely manner and with such contents that allows workers' representatives to correctly carry out their functions. That implies to provide the information in the beginning of the consultation process.

The employees' representatives are entitled to express their opinion by means of a report in the cases of restructuring, reduction on employment, total or partial geographic transfer or any modification on the legal status that can have an impact on employment.

In case of collective dismissals, the employer must consult the legal representatives of the workers in the undertaking. The employer must also provide the relevant information as stipulated above as well as the following:

- full names of workers affected;
- in enterprises with more than 50 employees, an accompanying social plan aiming to mitigate the consequence over the workers affected.

Regardless of the type of restructuring, the consultation must be carried out in a 'timely manner' and with such contents, the appropriate level of direction, and in such a way allowing representatives to obtain a justified response to their requests. This consultation process will not be longer than 15 days. In the absence of workers' legal representatives, employees are to establish a commission made up of a maximum of three members who must be workers of the company and are democratically appointed by the employees, or on a commission made up by three members of the most representative unions in the sector.

These regulations are valid for companies with more than 10 employees or more than five for these cases affecting the entire workforce.

Commentary

The regulation was modified by Law 3/2012 of 6 July on urgent measures to reform the labour market. This Royal Decree law introduced that in the absence of workers' legal

representatives, employees will be able to confer representation on a commission made up of a maximum of three members who are workers of the company and are democratically appointed by the employees, or on a commission made up by three members of the most representative unions in the sector.

In August 2013, Royal Decree 11/2013 clarified how the negotiation committee must be established as well as the documentation that the employer has to provide. This was made in order to reduce legal uncertainty regarding collective dismissal procedures.

After the 2012 reform, an important share of concluded procedures about collective dismissals resulted in court rulings against employers. In most of the cases, the judges ruled that the dismissal procedure was void due to non-compliance of the negotiation procedure. Thus, Royal Decree 11/2013 aimed to address the shortcomings of the new regulation.

In March 2019, Royal Decree-Law 6/2019 amended article 64 of the Workers' Statute to establish the right of workers representatives to receive annual information on the company's implementation of the equality plan and information on salaries to carry out gender pay gap audits.

Additional metadata

Cost covered by	None
Involved actors other than national government	Trade union Works council
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), Spain: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin

Sweden

Staff information and consultation on restructuring plans

Phase	Co-Determination Act (SFS 1976:580)
Native name	Lag (1976:580) om medbestämmande i arbetslivet
Type	Staff information and consultation on restructuring plans
Added to database	08 May 2015
Access online	Click here to access online

Article

11, 13 and 15

Description

According to the Co-Determination Act, all employers are obliged to consult with affected trade unions when the need for restructuring, defined as significant changes to the business, is being contemplated. Where an employer is not bound by a collective agreement it is obliged to consult with all affected trade unions (i.e. trade unions that have members facing termination due to redundancy). An employer bound by a collective agreement only has to consult with the trade union that has signed the agreement.

In a redundancy situation, the employer must present the following information to the trade union(s) in connection to the primary negotiations:

- the reasons for the planned dismissals;
- the planned number of employees affected and the categories to which they belong (white and/or blue collar workers);
- the number of employees normally employed and the categories to which they belong (white and/or blue collar workers);
- the planned time period during which the dismissals are to be carried out;

- the method of calculating potential severance payments that will be paid in addition to any monies owed under the provisions of collective agreements or the law.

The purpose of the consultations is to give the unions possibilities at an early stage to give additional input that may change the company's decision making. However, this does not give the unions the right to veto and any outcomes of a restructuring process are ultimately at the company's sole discretion.

A party who is required to negotiate must appear at the negotiating session and, if necessary, submit a reasoned proposal for the solution of the question to which the negotiations relate. The parties may jointly choose the form of negotiation. During these consultations, the employer has to specify the grounds for the restructuring. The employer, however, enjoys considerable freedom to cut jobs for business reasons, e.g. redundancies. The employer may for instance close down a business regardless of whether it is profitable or not, or restructure the business due to new technology or due to the use of temporary agency workers.

Commentary

No information available.

Additional metadata

Cost covered by	None
Involved actors other than national government	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), Sweden: Staff information and consultation on restructuring plans, Restructuring legislation database, Dublin