INTERNATIONAL LABOUR LAW NETWORK **NEWSLETTER**

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INTERNATIONAL LABOUR LAW NETWORK

JULY 2025

Dear Reader,

One of my clients told me a few years ago that breaking up with any employee is a drama for him. But conducting mass layoffs is a disaster. We don't hire for that. We don't incur costs and spend time recruiting employees just to lose them afterwards, especially in such a collective manner.

Unfortunately, mass layoffs in many European countries, whether they are in the so-called old economies of Western Europe or in the countries of the former post-communist bloc, may not be the everyday reality for labour law lawyers, but most of us have gone through such processes in our professional careers. It is neither easy nor pleasant.

However, changes in the economy, first globalization and then the departure from it, climate changes, and international politics determine such necessary actions in many areas and industries. It is important to conduct them in accordance with the regulations and with something that is sometimes missing in these regulations, namely a so-called 'human face'.

In the latest edition of the ILLN newsletter, you will find very valuable information regarding collective dismissals in many European jurisdictions. It is worth getting acquainted in order to understand and compare the specifics of individual countries. I warmly invite you to read it.

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POLISH ILLN MEMBER

Top ILLN News

Collective dismissal in selected European countries

POLAND

MARCIN WOJEWÓDKA

New Member of ILLN
WOLFGANG KINNER
Welcome on board!

COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

AUSTRIA

What is the legal basis?

In Austria, the Labour Market Promotion Act AMFG) provides the legal framework for the promotion and organisation of the Austrian labour market. § 45a AMFG established an Early Warning System for collective dismissals.

What are the legal conditions for collective dismissals?

If an employer intends to terminate the employment relationships (including offers of mutual termination) of:

- ≥ 5 employees in sites with 21-99 employees
- ≥ 5% of employees in sites with 100-600 employees
- ≥ 30 employees in sites with more than 600 employees
- ≥ 5 employees aged 50 or older (regardless of the size of the site)

(i) within a period of 30 days, it is obliged ***(ii)*** to submit a written notification to the competent regional office of the Public Employment Service (AMS) upon a blocking period of at least 30 days prior to the first notice of termination is given. If failing to do so, the terminations are null and void. The employer would need to repeat the process in full compliance with the above. (Only) upon said blocking period of 30-days notices of termination may be given – certainly under adherence of individual applicable notice period and notice date.

Is there any procedure for collective dismissal?

The described early warning system is initiated by the employer, filling and filing a 3-page standard form provided by AMS, giving the following aggregated information: Reasons for termination; period within which the employment relationships are to be terminated; number of regularly employed workers; number of those likely to be affected; age, gender, qualifications, and length of service of those affected; key criteria for selecting those affected; further social measures, if any.

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Subsequently to receipt of employer's notification the AMS must carry out necessary consultations in particular with the employer, the works council and both statutory and voluntary representatives of employers and of employees for the respective economic sector. If the employer can provide evidence of important economic reasons, e.g. the conclusion of a social plan, AMS my give its consent to shorten the 30 days blocking period.

Note: Employers tried to avoid negative publicity of early warning system by staggering terminations over time under the explained thresholds. However, according to recent case law, this practise must not circumvent application of early warning system (unless it was the true intention of the employer not to terminate all employment relationships within a 30-day period for objective reasons).

What is role and right of employee representatives in collective dismissals?

The works council, if any, must be simultaneously informed by the employer about the notification to AMS. AMS can consult with the works council, if necessary. On company level, works council may claim a social plan if certain criteria are met. Note: Compliance with the early warning system does not substitute mandatory information of works council one week in advance about each individual notice of termination.

Are there any severances to be paid to terminated employees and how are those calculated?

There are no special severances due to the early warning system. The general rules apply: In case of all employment relationships that began after 31 December 2002 the employer must pay a monthly contribution of 1.53% of the gross salary until the end of employment to the selected severance pay fund. Employees who started employment before 1 January 2003 will be entitled to a severance owed by the employer itself (and not by an external fund). Amount of severance pay depends on length of service, ranging from 9 to 12 monthly remunerations. Apart from that, negotiations on a social plan covering collective dismissals might result in certain redundancy payments.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

BELGIUM

Legal basis

- EU Directive 98/59/EC on collective redundancies (20 July 1998).
- Collective Labour Agreement (CLA) No. 24 – Information and consultation procedure (2 October 1975).
- Royal Decree of 24 May 1976 – notification to VDAB/FOREM/ACTIRIS and waiting period.
- Renault Act of 13 February 1998 – links the procedure to individual protection against dismissal.
- Collective Labour Agreement (CLA) No. 10 – Special compensation for collective redundancies (8 May 1973).
- Social Criminal Code Art. 193 – Criminal penalties for non-compliance.

Curiosity: The closure of the Renault factory in Vilvoorde in 1997 directly led to the Renault Act, which imposed the current procedural obligations.

Legal conditions for collective dismissal

A dismissal is 'collective' when it is not personal and meets the following criteria **within 60 days:**

The company had an average of **more than 20 employees in the previous calendar year.**

Average employment:

Average Employment	Number of dismissals
20 – 99	≥ 10 workers
100 – 299	≥ 10 % of workforce
≥ 300	≥ 30 workers

Certain sectors (e.g. port work and construction) may apply alternative procedures.

Redundancy must also be spread proportionally across three age groups: under 30 years, 30–49 years, and 50 years and over.

BELGIUM

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Procedural steps:

- Written notification of the intention to make collective redundancies must be given to the works council/trade union delegation, including all relevant information.
- Verbal explanation at least one day later.
- Consultation on possibilities to avoid redundancies or mitigate their consequences.
- Copy of the intention to the subregional employment service and the Federal Public Service of the Welfare, Public Health and Social Security Department (FPS WASO).
- A waiting period of 30 days (which can be extended or shortened to 60 days) before effective termination/redundancy.
- After the waiting period, individual termination or severance pay is possible.

Curiosity: If the representatives do not object, individual employees cannot contest the procedure at a later date (Cass. 16 July 2009, 'Mono Car Styling').

Severance pay

In addition to the normal notice period or severance pay, every employee who is entitled to unemployment benefits after collective dismissal receives 'compensation for collective dismissal' (Collective Labour Agreement 10).

Element	Calculation
Basis	50 % × (net reference wage – unemployment allowance)
Reference wage	Gross wage ceiling (€ 4.151,47 per 1-5-2024), minus social security and withholding tax
Duration	4 months after termination employment contract (reduced by long notice periods > 3 months)
Exclusions	Not due when a plant closing indemnity or other special protections indemnities are due.

Example (illustrative): net reference wage € 2,400; unemployment allowance is € 1,400 → difference € 1,000 → monthly collective redundancy payment € 500, paid for a maximum of 4 months (total € 2,000).

Curiosity: The allowance is exempt from social security contributions but taxed as severance pay.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

FRANCE

Legal Framework

A dismissal is considered collective when it affects at least two employees within a 30-day period.

According to Article L.1233-8 of the French Labor Code, the number of dismissals for economic reasons must be assessed over a rolling 30-day period. Employers must take into account not only redundancies in the strict sense but also other forms of termination for economic reasons. The French Supreme Court (Cour de cassation) has ruled that mutually agreed terminations must be included in this assessment when determining the applicable procedure (Cass. soc., 9 Mar. 2011, No. 10-11.581).

The applicable redundancy procedure depends on:

- The number of employees concerned (less than 10 vs. 10 or more),
- Whether the company usually employs fewer than 50 or at least 50 employees.

Legal Conditions for Collective Dismissals

Economic Grounds

Under Article L.1233-3 of the Labor Code, economic dismissal must be justified by reasons unrelated to the individual employee, and may arise from:

- Economic difficulties, assessed using objective indicators (e.g. decline in orders, revenue, operating losses),
- Technological changes,
- Necessary reorganization to preserve competitiveness,
- Cessation of the company's activity.

The assessment of economic justification depends on whether the company belongs to a group:

- If independent, the company itself is the reference.
- If part of a group, the assessment must be made at the level of the business sector shared by the company and its group affiliates operating in France.

Notably, a dismissal based solely on the intent to reduce labor costs—such as cutting wages or social security contributions—is not sufficient to justify economic grounds (Cass. soc., 3 Nov. 2011, No. 10-21.337).

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Redundancy Selection Criteria

Before initiating dismissals, employers must apply objective selection criteria to determine which employees are to be dismissed, within each affected professional category.

The law (Article L.1233-5) and collective agreements generally require consideration of the following:

- Family responsibilities,
- Seniority within the company,
- Social factors affecting re-employment (e.g., age, disability),
- Professional qualifications and skills.

Each criterion may be assigned a weighting system (e.g., point values), and the employer may prioritize one, provided all others are also taken into account.

Applicable Collective Dismissal Procedure

The applicable procedure depends on the following factors:

- Company size: Is the employer above or below the 50-employee threshold
- Number of planned dismissals over 30 days:
  - 2 to 9 employees: simplified procedure,
  - 10 or more employees: more complex procedure, with distinctions based on company size:
    - Fewer than 50 employees: consultation with the employee representative body (CSE),
    - 50 employees or more: in addition to consulting the CSE, the employer must implement a Job Protection Plan (Plan de Sauvegarde de l'Emploi – PSE), subject to validation or approval by the labor administration.
- Presence of elected employee representatives (CSE).

Role and Rights of the elected employee representatives (CSE)

The Comité Social et Économique (CSE) plays a central role in the collective dismissal process. Its legal rights include:

- Right to be informed and consulted on issues affecting the organization, management, and general running of the company, especially those impacting workforce size or structure (Art. L.2312-8),
- Right to be consulted on collective redundancies (Art. L.1233-8),
- Right to be consulted on any restructuring or downsizing (Arts. L.2312-37 and L.2312-39),
- In companies with at least 50 employees, mandatory consultation when 10 or more dismissals are planned within 30 days (Art. L.1233-28),
- Right to be consulted on the selection criteria used to determine which employees will be dismissed (Art. L.1233-5).

If a PSE is required, the CSE must be consulted and must issue an opinion on both the proposed operation and the terms of its implementation (Art. L.1233-30).

Employee Entitlements in Collective Dismissals

Employees dismissed for economic reasons may be entitled to the following, depending on their status and the procedure applied:

- Statutory or contractual severance pay, subject to conditions (especially seniority),
- Compensation in lieu of notice, depending on the situation (e.g., if the employee enters the "Contrat de Sécurisation Professionnelle" or CSP),
- Re-employment priority for 12 months, which the employer must notify the employee of in writing,
- Additional severance payments under a PSE,
- Support measures under the PSE, such as training, outplacement, or relocation assistance,
- Unemployment benefits, including those under the standard regime or specific to the CSP.

COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

GERMANY

What is a collective dismissal under German law?

Under German law, a collective dismissal arises when an employer plans to terminate the employment relationships of a specific number of employees within a 30-day period. Whether such terminations qualify as a collective dismissal depends on whether the number of planned dismissals exceeds certain statutory thresholds, which vary according to the size of the establishment:

Establishments with regularly more than 20 but fewer than 60 employees:	More than **5** dismissals
Establishments with regularly at least 60 but fewer than 500 employees:	More than **25** dismissals or more than **10 %** of the employees
Establishments with regularly 500 or more employees:	From **30** dismissals

In such cases, the employer must comply with the collective dismissal provisions under Sections 17 et seq. of the German Dismissal Protection Act (KSchG), particularly the notification requirement to the works council (insofar as a works council exists) and the employment agency. Relevant European regulations must also be observed, as they may take precedence over national law.

Works council consultation ("Konsultationsverfahren")

If a works council is in place, it must be informed in writing of the planned dismissals prior to the employer's notification to the relevant employment agency, in accordance with Sec. 17 (2) KSchG. This information must cover key details such as the reasons for the dismissals, the number of employees and professional groups affected, the timeline, selection criteria, and any severance arrangements. In addition, the employer and works council must also discuss whether and how dismissals can be avoided or restricted and their consequences mitigated.

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Note: If the collective dismissal is part of an operational reorganization, negotiations must also be held with the works council on a reconciliation of interests and a social plan in accordance with the provisions of the Works Constitution Act (BetrVG).

Notification procedure (*"Massenentlassungsanzeige"*)

Pursuant to Sec. 17 (1) KSchG, the employer is required to formally notify the relevant employment agency of the collective dismissal before issuing termination notices to employees. This notification must comply with specific legal requirements regarding both form and content. Compliant notification results in a one-month dismissal freeze, during which terminations are only effective with the approval of the employment agency (Sec. 18 (1) KSchG).

Procedural flaws

Consultation with the works council and notification to the employment agency are two separate procedures, compliance with each of which is a prerequisite for the intended dismissal to be effective. Deficiency in any of these procedures may constitute an independent ground for invalidity of the dismissal. It is therefore essential for employers to be thoroughly prepared and well-organized.

Severance payments in case of collective dismissals

Under German law, collective dismissals do not automatically entitle employees to severance. However, severance payments are often provided for in a social compensation plan negotiated with the works council.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

ITALY

Italian employers staffed with more than 15 employees who intend to dismiss more than 5 employees within 120 days are **required to follow the collective dismissal procedure set out in Law no. 223 of 1991, as outlined below:**

Communication of commencement of the collective dismissal procedure

The collective dismissal procedure starts with a prior communication to union representatives to inform them of the intention to dismiss the redundant employees specifying the reasons, the number and the professional profiles of redundant employees.

Joint examination

Within seven days of communication of the commencement of the procedure, union representatives may request a joint examination to analyse the reasons of the redundancy, the possibilities for re-employing the redundant employees and any social measures for reskilling them. The joint examination must be completed within 45 days and may lead to the execution of a collective agreement.

Administrative stage

If the joint examination is unsuccessful, the competent administrative bodies may start an additional consultation stage, also by making their own proposals for reaching an agreement. This stage must be completed within 30 days.

Notice of dismissal

Once the union and the administrative stages have been completed, the employer may dismiss redundant employees by giving them written notice in accordance with the notice period. The employer must comply with specific selection criteria when selecting the employees to dismiss.

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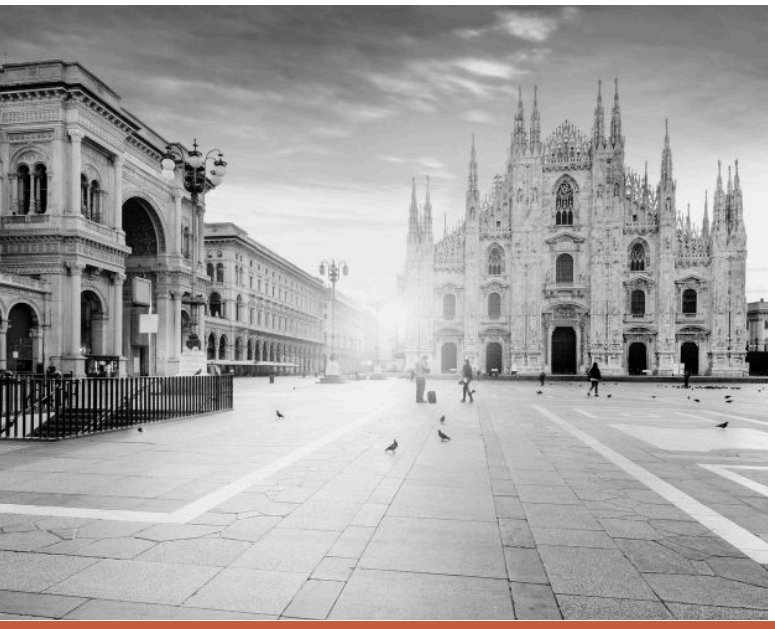
These criteria are usually set out in the frame of the collective agreement reached with the union representatives or provided for by law (e.g., family responsibilities, service seniority, business needs). Redundancies must be then notified to the concerned employees within 120 days of completing the procedure, unless the collective agreement specifies otherwise.

Redundant employees may challenge their dismissal in writing **within 60 days of receiving notice for the following reasons:**

Lack of written form

The relevant Employment Tribunal may deem the dismissal null and void and order the employer to: ***(i)*** reinstate the concerned employee; ***(ii)*** pay compensation for damages, covering the period from the date of dismissal until the date of reinstatement, with a minimum of five months' salary; ***(iii)*** pay social security contributions for the whole period of unlawful dismissal. Instead of reinstatement, the employee may request an indemnity equal to 15 months' salary.



Failure to comply with collective dismissal procedure

The relevant Employment Tribunal may deem the employment terminated and order the employer to pay compensation of an amount ranging between 12 and 24 months' salary. For employees employed after 7 March 2015, compensation shall equal two months' salary based on the salary used to calculate severance pay for each year of service, with a minimum amount equal to six months' salary and a maximum amount equal to 36 months' salary.

Failure to comply with selection criteria

The relevant Employment Tribunal may order the employer to: ***(i)*** reinstate the concerned employee, without prejudice to the employee's right to choose for compensation in lieu; ***(ii)*** compensation for damages, up to a maximum of 12 months' salary; ***(iii)*** payment of social security contributions. For employees employed after 7 March 2015, the remedies are the same as that provided for in the event of non-compliance with collective dismissal procedure.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

LUXEMBOURG

What is the definition of collective dismissal?

Collective dismissal is defined as dismissal for reasons which are not linked to the employee's behaviour (such as economic reasons) of at least 7 employees over 30 days or at least 15 employees over 90 days. Provided that at least 4 employees are dismissed for economic reasons during this period, terminations of employment contracts by mutual agreement and departures into early retirement shall also be taken into consideration.

When there have been 5 dismissals for economic reasons within 3 months or 8 dismissals within 6 months, the *Comité de Conjoncture* must invite the social partners to begin discussions aimed at concluding an employment safeguard plan (*Plan de Maintien dans l'Emploi*). In companies facing economic and financial problems, this plan aims to avoid a collective dismissal by taking various measures to adapt the workforce while safeguarding employment (such as short-term unemployment, voluntary part-time work, reduction of working time, continuing training, retraining, temporary loan of workforce, early retirement). Social partners may also decide to take the initiative to begin discussions to conclude such a plan when they foresee economic or financial problems in the company that may have an impact on employment.

What is the procedure that must be followed in the event of collective dismissals?

When an employer contemplates proceeding with a collective dismissal, a social plan must be negotiated with the staff delegation and the trade unions that have signed the applicable collective bargaining agreement, if any.

Before starting negotiations for a social plan, the employer must inform and consult the staff delegation in this respect, as well as the Employment Agency.

Negotiations for a social plan shall cover the means of avoiding or reducing the number of dismissals and of mitigating the consequences of these dismissals by recourse to accompanying measures aimed at aiding the redeployment or

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retraining of dismissed employees. A certain number of topics listed by law must be discussed during the negotiations of the social plan. The negotiations shall also address the financial compensation(s), if any, which will be paid to the relevant employees.

Within 15 days after the beginning of the negotiations, the parties must record the outcome of their discussions in the form of an agreement, called a "social plan" agreement, which shall be sent to the Employment Agency. If the parties cannot agree, a conciliation process is initiated.

After the conclusion of the social plan or in case of non-conciliation within the applicable legal timeline, the employer is free to proceed with the dismissals.

Non-compliance with the applicable procedure would render the dismissals null and void, and affected employees may seek reinstatement or damages before the Labour Court.

What are employees' rights in the event of collective dismissals?

By law, employees subject to collective dismissal are entitled to a minimum notice period of 75 days. This period may be extended under legal provisions to 4 months for employees with at least 5 years of service and to 6 months for employees with 10 years of service or more, or even to higher notice periods by collective bargaining agreement.

Severance pay is due, calculated according to the employee's length of service (i.e., by law ranging from 0 to 12 months of salary depending on the employee's years of service, or higher amounts subject to the applicable collective bargaining agreements).

In order to reach an agreement on the conclusion of a social plan, the employer usually provides for extra-legal compensation (such as extension of the notice period, settlement indemnity, allowances, etc.) and/or non-pecuniary advantages (such as outplacement, recommendation letters, etc.).

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

THE NETHERLANDS

Legal basis

Collective redundancies in the Netherlands are regulated by the Dutch Collective Redundancy (Notification) Act ('WMCO'), which transposes EU Directive 98/59/EC.

Legal conditions

Under the Directive, Member States may choose how to define collective redundancy; the Netherlands has opted for the criterion of 20 or more redundancies within a 3-month period in a single labour market region, for business economic or business organisational reasons not related to the individual employees.

The WMCO applies to the termination of employment contracts, including terminations by mutual agreement initiated by the employer (settlement agreements). Payroll employees are included in the headcount, but temporary agency workers, self-employed contractors, seasonal workers, and employees on fixed-term contracts ending by operation of law are excluded.

Each legal entity within a corporate group must be assessed separately to determine whether the WMCO threshold is met.

Procedure

1. Notification: Employer must inform the Dutch Employee Insurance Agency ('UWV') and relevant trade unions of the intended redundancies before final decisions are made.

2. Consultation with trade unions and/or Works Council regarding intended redundancies, potential alternatives, and mitigation measures.

3. A one-month standstill (waiting period) following notification, during which redundancies cannot be effected.

4. The notification to UWV must include the number of employees affected (by role, age, and gender), the anticipated termination date(s), the selection criteria applied, the calculation method for severance payments, and the intended method(s) of termination.

Role of trade unions

Trade unions must be consulted promptly and must receive sufficient information to influence the employer's decision. It is common to agree on a social plan, although formally not legally mandatory, the consultation should cover efforts to reduce or avoid redundancies and mitigate consequences.

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Role of the Dutch Works Council

It is important to note that, in addition to the WMCO, the Dutch Works Councils Act ('WCA') also applies.

A redundancy decision is generally considered a 'major decision' within the meaning of Article 25 of the WCA. Therefore, the employer is required to formally request the advice of the Works Council and consult the Works Council before implementing the redundancy. The Works Council issues non-binding advice, but if the employer chooses to deviate from that advice, generally a statutory one-month waiting period must be observed before the redundancy can be implemented. The Works Council may initiate proceedings before the Dutch Enterprise Chamber if its advisory rights under the WCA are not respected.

The employer may deal with only the trade unions, only the Works Council, or both. When both bodies are involved, this can be advantageous, for example, if a social plan is jointly signed and supported by both unions and the Works Council.

Severance payment

Employees redundancies under a collective redundancy are entitled to a statutory transition payment under Article 7:673 of the Dutch Civil Code. This amounts to:

- 1/3 of a monthly salary per full year of service
- With a cap of approximately EUR 98,000 (2025) or one annual salary, whichever is higher.

If a social plan is negotiated, the statutory entitlement serves as the starting point for negotiations, with enhancements often added by agreement.

Sanctions for non-compliance

Failure to comply with WMCO and/or WCA obligations, such as incomplete notifications or lack of consultation, can result in:

- The annulment of terminations by the courts
- The rejection of redundancy applications by UWV
- Potential entitlement to fair compensation for employees

Despite the strict regulation, collective redundancies in the Netherlands can be executed within a reasonable time frame and budget, provided that all procedural steps are properly followed and stakeholders are appropriately engaged.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

POLAND

Legal Basis

The procedure for collective dismissals is regulated by the Act of March 13, 2003 on special principles for terminating employment relationships with employees for reasons not related to employees.

Legal conditions for collective dismissals

Three conditions must be met for a dismissal to be considered collective:

1. the termination of employment must be **due to reasons not related to the employees;**
2. the employer **must employ at least 20 employees**, regardless of their working time or employment status;
3. **the number of employees to be dismissed within a specified period (30 days) must meet the statutory thresholds.** This refers to situations where employment contracts are terminated (either by notice or by mutual agreement) with the following number of employees:
    - **10 employees**, if the employer employs fewer than 100 employees;
    - **10% of employees**, if the employer employs at least 100 but fewer than 300 employees;
    - **30 employees**, if the employer employs 300 or more employees.

Apart from collective dismissals, the Act also regulates individual dismissals due to reasons not related to employees. This applies when the employer has at least 20 employees, but the number of dismissals does not meet the statutory thresholds listed above. In such cases, the employer is not required to carry out the collective dismissal procedure, but is obliged to pay severance pay to the employee.

Procedure for collective dismissals and the role of trade unions/ employee representatives

The Act on collective dismissals specifies the procedure that employers must follow to ensure dismissals are carried out legally. To initiate the collective dismissal process, the employer must first inform the District Labour Office, and then notify the trade unions.

The next stage is a consultation with the trade unions, aimed at working out and concluding

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an agreement between the employer and the unions. This agreement should comprehensively define the rules and course of the planned group dismissal, including the number of employees to be dismissed, the order of dismissals, etc.

If there are no trade unions operating at the workplace, the employee representatives, selected in accordance with the employer's procedures, assume the rights of the trade unions with respect to consultation.

If no agreement can be reached, the employer must specify the terms of the collective dismissal in a regulatory document.

Once the consultation stage is complete, the employer must inform the District Labour Office about the final arrangements regarding the planned dismissals. A copy of this notification must also be delivered to the union side, which has the right to present its position on the matter.

After completing this procedure, the employer may begin terminating employment contracts as part of the collective dismissal process.

Severance Pay

In connection with the termination of employment under a collective dismissal (and individual dismissal), the employee is entitled to severance pay in the following amounts:

1. **One month's remuneration**, if the employee was employed for less than **2 years**;
2. **Two months' remuneration**, if the employee was employed for **2 to 8 years**;
3. **Three months' remuneration**, if the employee was employed for more than **8 years**.

The amount of severance pay may not exceed 15 times the minimum wage in force on the date of termination, as determined by separate regulations.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

PORTUGAL

Articles 359 et seq. of the Portuguese Labor Code (hereinafter "PLC") transposed the Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies. In accordance with the PLC, collective dismissal refers to the termination – either simultaneous or successive within a 3-month period – of employment contracts by the employer's initiative, based on market, structural or technological reasons. A dismissal is considered collective when it affects at least 2 employees in micro or small enterprises (with fewer than 50 employees), or at least 5 employees in medium or large enterprises (with 50 or more employees).

The defining feature of a collective dismissal is that it is based on a business-related reason that underlies the termination of employment contracts. These reasons typically fall into the following categories:

Market Reasons:

A downturn in business activity due to an anticipated decline in demand for goods or services, or the emergence of legal or practical obstacles that prevent placing these goods or services on the market.

Structural Reasons:

Factors such as economic or financial imbalance, changes in the business model, organizational restructuring, or the replacement of core products.

Structural Reasons:

Advancements or changes in production or technical processes, including the automation of production, logistics, or control systems; the digitization of services; or the automation of communication tools.

The selection criteria for employees affected by

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a collective dismissal must be objective, non-discriminatory, and directly related to the underlying reasons for the dismissal. It is not uncommon for a collective dismissal to be deemed justified in its grounds, yet unfair due to the selection of the affected employees. For this reason, the development and application of the selection criteria must be carried out with particular care and transparency.

An employer that intends to carry out collective dismissals must initiate the procedures by notifying the employees and their representative's bodies of their intentions and reasons. The employer must also notify labor authorities that a collective dismissal will take place. Subsequently, an information and consultation period may take place. This step is mandatory if there are employee representative bodies in place—such as a works council, union council, or an ad hoc committee appointed by the employees.

Once an agreement has been reached with the employees—or, in the absence of an agreement, after the legally required cooling-off period—the employer may proceed to issue the final decision on the collective dismissal. This decision must be made in writing and must observe the following notice periods:

1. **15 days**, in the case of an employee with less than 1 year's seniority;
2. **30 days**, in the case of an employee with a seniority of 1 year or more and less than 5 years;
3. **60 days**, in the case of an employee with a seniority of 5 years or more and less than 10 years;
4. **75 days**, in the case of an employee with 10 years' seniority or more.

The compensation to which the employee is entitled depends on the length of service and the date on which the contract was signed.

Currently, the PLC foresees compensation equivalent to 14 days' basic pay and seniority for each full year of seniority with the following limits:

1. The amount of the employee's basic monthly salary and seniority to be considered for the purposes of calculating the compensation may not exceed 20 times the guaranteed minimum monthly salary (currently €870.00);
2. The total amount of compensation may not exceed 12 times the employee's basic monthly salary and seniority or, where the limit provided for in the previous paragraph applies, 240 times the guaranteed minimum monthly salary;
3. The daily amount of basic pay and seniority is that resulting from dividing the monthly basic pay and seniority by 30;
4. In the case of fractions of a year, the amount of compensation is calculated proportionally.

It is, nevertheless, important to bear in mind the transitional arrangements in place for calculating severance payments applicable to employment contracts entered into before 1 May 2023.

In 2024, a total of 497 collective dismissals were officially reported in Portugal, affecting 6.085 employees. Of this total, 44% occurred in small companies and 34% in micro-enterprises[1].
As for 2025, preliminary data indicates that, as of May, there had been 246 collective dismissals. Micro and small businesses were the most affected, with a total of 3,471 employees impacted —representing a 31% increase compared to the same period last year[2]. Approximately 43% of these collective dismissals were due to the permanent closure of companies.

[1] Annual Report, Directorate General for Employment and Labour Relations, January 2025, available at <Relatorio-anual-Despedimento-Coletivo-2012-2024.pdf>.
[2] Monthly Report, Directorate General for Employment and Labour Relations, June 2025, available at <Relatorio-Despedimento-Coletivo-2025.05.pdf>.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

SPAIN

Legal basis

The collective dismissal in Spain is set forth under Articles 49 and 51 of the Workers Statute and under Royal Decree 1483/2012, of October 29, on collective dismissal procedures and temporary layoffs.

Legal conditions for the collective dismissal (ETOP)

A collective dismissal is understood to take place when the company's terminations reach the following threshold in successive periods of 90 calendar days:

- **10 terminations** in companies employing less than 100 employees
- **Terminations of 10% of the workforce** in companies employing between 100 and 300 employees.
- **30 employees** in companies employing more than 300 employees.

All terminations for objective grounds are included for purposes of calculating the threshold. Also disciplinary terminations considered unfair are included for these purposes.

In order to implement a collective layoff, the employer shall justify the existence of objective grounds, such grounds being the following:

1. **Economic:** These relate to the company's negative financial results, such as, a decrease in sales or losses.
2. **Technical:** These apply when the company must introduce changes in the means of production. For example, the digitalization of a company.
3. **Organizational:** When the company needs to amend the structure of the company from an organizational point of view.
4. **Production:** when the demand of the company's products or sales changes.

Procedure

A consultation process with the employees' representatives (or in lack of employees' representatives, with a committee of employees) shall be implemented in where:

- The company needs to provide the employees' representatives (or in lack of employees' representatives, to the committee) with the information/documentation and reports justifying the grounds for the dismissal.

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- The parties are obliged to negotiate on ***(i)*** the economic conditions of the dismissal, ***(ii)*** how to reduce the negative effects of the collective dismissal (for example, reduce the number of affected employees relocating them in other entities of the group, if any, etc.)

In order to start the consultancy process, the employees' representatives (or in lack of employees' representatives, the committee) have between 7-15 calendar days to choose who will represent them in the process.

Afterwards, the consultation period starts, with a duration of between 15 and 30 calendar days depending on the number of affected employees.

If an agreement is reached during the consultation process, the dismissals are implemented according to the agreement. Even if an agreement is reached, employees can individually challenge their dismissal.

Otherwise, if no agreement is reached during the consultation process, the Company can also proceed with the terminations (paying the legal minimum severance of 20 days' salary per year of service capped at one years). Employees' representative or the committee negotiation on behalf of the employees can challenge the collective dismissal before the Courts.

Companies shall notify before the Labor Authorities their decision to implement or not the dismissal when the consultation process ends. Labor Authorities shall issue a report stating whether they understand the company has or not sufficient serious grounds to implement the dismissal.

Severance in case of collective dismissal

In case of objective dismissals (either collective or individual), the legal minimum severance amounts to 20 days of salary per year of service capped at 1 year salary. For such salary purposes, any amount (fix, variable, in kind, etc.) received by the employee during the 12 months prior to the dismissal is taken into account.

In case the collective dismissal is considered unfair, the legal severance compensation amounts to 45 days of salary per year of service until February 2012 capped at 42 months' salary plus 33 days of days of salary per year of service from February 2012 until the termination date, capped at 24 months' salary.

In case the collective dismissal is declared null and void (due to for instance, bad faith during the consultancy process, not following the proceeding, not providing the employees' representatives with the required documentation, etc.) the company needs to reinstate the employees and pay them the salaries accrued since their termination until their reinstatement.

Considering the risk arising from the collective dismissal being considered null and void or unfair, it is very common to offer during the consultancy process severance compensations higher than the severance compensations legally foreseen for objective dismissals.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

SWEDEN

Legal basis

Collective dismissals in Sweden are primarily governed by three key statutes: the Employment Protection Act, which sets out rules on dismissals and employee protection; the Co-Determination in the Workplace Act, which mandates consultation with trade unions before decision to dismiss employees may be taken; and the Act on Certain Measures to Promote Employment (Sw. *Främjandelagen*), which impose employers obligations to notify the Swedish Public Employment Agency (Sw. *Arbetsförmedlingen*).

Trigger and Conditions

Dismissal must be based on objective reasons (Sw. sakliga skäl), which e.g. can be reorganizations due to economic, technical, or organisational reasons. Collective dismissal is not a term used or defined in Swedish law. However, if an employer plans to terminate five (or 20 employees, in total, within a 90-day period) within a single county, the employer must notify the Swedish Public Employment Agency thereof.

The employment protection consist of three parts; ***(i)*** an obligation for the employer to investigate, and offer, relocation to any open position for which the employee at risk of being made redundant has sufficient qualifications, ***(ii)*** apply the selection criterion based on the last-in-first-out (LIFO) principle where employees with a longer term of services has priority to remain employed compared to employees with shorter term of service, and ***(iii)*** observe the right of priority to re-employment in relation to dismissed employees if an open position arises in the business during the notice period or nine months thereafter.

Procedure

The employer must first conclude union consultations before dismissing an employee. If the employer is bound by a CBA, such consultations shall be concluded with all unions with which the employer has a CBA. If the employer is not bound by a CBA, the employer must consult with all unions having a member effected by the reorganisation. Following that, a notice of dismissal (Sw. varsel) must be filed with the Swedish Public Employment Agency. The timing of this notice depends on the number of employees affected by the dismissal and varies between 2-6 months.

SWEDEN

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After union consultations and filing to the Public Employment Agency have been made, the employer may take the formal dismissal to carry out the reorganization and issue individual termination notices.

What is the role and right of employee representatives in collective dismissals

Trade unions play a central role in the collective dismissal process. They are entitled to information, can propose alternatives to redundancy, and may negotiate deviations from the standard selection criterion (LIFO principle). If an employer fails to conduct proper consultations, the employer may be liable to pay general damages to the trade unions for disregarding the consultation obligation.

Severance and Financial Considerations

Swedish law does not mandate statutory severance pay. However, dismissed employees are entitled to paid notice periods, ranging from one to six months, depending on their length of service. Garden leave is a unilateral employer's decision while payment in lieu of notice requires the employee's consent.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

SWITZERLAND

Legal Basis

The legal framework governing collective dismissals in Switzerland is primarily established in Articles 335d to 335g of the Swiss Code of Obligations (CO).

Swiss labor law grants employers relatively broad discretion to terminate employment contracts. However, when it comes to collective dismissals, a clear legal process must be followed to ensure transparency, consultation, and fairness.

Voluntary or Mandatory Nature

A collective dismissal is defined under Swiss law as the termination of a certain number of employment relationships within a 30-day period for reasons unrelated to the employees themselves, such as economic or structural changes. The minimum thresholds that must be met for such a dismissal to be considered collective depend on the size of the establishment where the employees work:

Number of Employees in the Establishment	Minimum Dismissals
21 - 99	10
100 - 299	10%
300 or more	30

The term 'establishment' refers to a business unit or operational entity with a certain level of operational autonomy. It does not need to be a legally separate entity but must function independently within the company.

Procedure for Collective Dismissal

Employers intending to conduct a collective dismissal must follow a structured multi-step process under Articles 335f and 335g of the CO. This process aims to ensure transparency, appropriate consultation, and oversight by public authorities.

First, the employer must inform employee representatives or, in their absence, the entire workforce in writing. This notification must include: the reasons for the dismissals, the number of employees affected, the number normally employed, the timeframe, the selection criteria,

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and any measures planned to mitigate the consequences, such as redeployment or a social plan.

At the same time, the employer must notify the competent cantonal labor authority with the same information. Subsequently, a consultation phase begins, during which employees or their representatives may submit proposals to avoid or reduce dismissals or to improve mitigation measures.

After the consultation, the employer must inform employees or the employee representation body about the outcome of the consultation and send a second written notice to the labor authority, confirming that consultation has concluded and explaining the outcome, especially how any employee proposals were handled. This step triggers a mandatory 30-day waiting period, during which dismissals may be announced but do not take legal effect until the period expires.

Failure to follow this procedure can render the dismissals abusive, potentially obliging the employer to pay compensation.

Role and Rights of Employee Representatives

In a collective dismissal, employee representatives—if in place—have a consultative role. They must be adequately informed and given an opportunity to respond. Their key rights include receiving timely and complete information and being able to make proposals. However, they do not have a right to veto or block the dismissal process.

If there are no employee representatives, the employer must carry out the consultation process directly with the entire workforce. This is typically done through written communication and company-wide meetings.

Severance Payments

Under Swiss law, there is no general statutory entitlement to severance payments in the case of collective dismissals. Exceptions exist only if a collective bargaining agreement (CBA) or a social plan provides for it, or if a dismissal is found to be abusive by a court. In the latter case, a judge may award compensation of up to two months' salary.

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COLLECTIVE DISMISSAL IN SELECTED EUROPEAN COUNTRIES

THE UNITED KINGDOM

In the UK, collective dismissals are governed by the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA), which sets out strict procedures that employers must follow when proposing to **dismiss 20 or more employees** at a single establishment within a **90-day period.**

Legal Framework

Collective consultation obligations are triggered when an employer proposes to dismiss **20 or more employees** at a **single establishment within 90 days.** "Redundancy" in this context refers to dismissals resulting from the employer ceasing or intending to cease business operations, or a diminished need for employees to carry out work of a particular kind.

Importantly, the duty to consult applies regardless of whether redundancies are voluntary or compulsory. Employers cannot stagger dismissals to avoid hitting the 20-employee threshold and doing so risks tribunal claims and potential penalties by way of protective awards.

Employers must commence collective consultation before any final decisions on redundancies are made. The consultation must begin:

- At least 30 days before the first dismissal where 20 to 99 employees are affected.
- At least 45 days in advance where 100 or more employees are involved.

Employers are also required to notify the Redundancy Payments Service within the same timeframes. Failure to do so may result in financial penalties.

Procedure

The consultation process must be **genuine and meaningful**. Employers are expected to explore alternatives to redundancy, ways to reduce the number of dismissals, and measures to mitigate the impact on affected employees.

Employers must provide written information to employee representatives, including:

- Reasons for the proposed redundancies;
- Numbers and categories of affected employees;
- Selection criteria;
- Timetable for dismissals; and
- Method of calculating redundancy payments.

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While there is no statutory minimum duration for the consultation itself, no dismissals can take place until the 30 or 45 day period has passed.

Trade Unions and Employee Representatives

Where a recognised trade union exists, it must be consulted. In the absence of one, employers must arrange for the election of employee representatives. These representatives play a crucial role in the consultation process, acting as intermediaries between the employer and the workforce.

Employee representatives are entitled to:

- Reasonable paid time off to perform their duties;
- Access to training and workplace facilities; and
- Protection from unfair treatment or dismissal.

Employers must provide representatives with detailed written information, including the reasons for redundancy, the number and categories of employees affected, selection criteria, and proposed timelines.

Consultation should involve regular meetings, open dialogue, and serious consideration of counterproposals. Representatives are expected to communicate with the workforce, gather feedback, and negotiate with the employer.

Compensation

Employees dismissed by reason of redundancy are entitled to **statutory redundancy pay**, calculated based on age, length of continuous service, and weekly gross pay (capped at £719 per week currently).

If the employer fails to consult as required, affected employees may be awarded a **protective award** of up to **90 days' full pay** by an employment tribunal.

Additional Legal Considerations

The Code of Practice on Dismissal and Re-engagement, issued under TULRCA, offers further guidance. While not legally binding, it is admissible in UK tribunal proceedings and may influence the outcome of claims.

Employers must also be mindful of overlapping obligations under TUPE (Transfer of Undertakings), health and safety regulations, and pension scheme changes, which may impose additional consultation duties.

Employment Rights Bill

The Employment Rights Bill, currently progressing through UK Parliament, proposes to introduce two key changes to collective dismissals, including:

1. **Increased Penalties:** The maximum protective award for failure to consult will increase from 90 to 180 days' gross pay per affected employee (expected to take effect in April 2026).
2. **Expanded Consultation Triggers:** Employers will need to track redundancies across multiple sites, not a single establishment (expected to take effect in 2027). This will require employers to track redundancy activity across their entire UK operations.

Collective dismissals require careful compliance with UK legal procedures. With changing rules on the horizon in the UK, employers must stay informed to manage redundancies lawfully.

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ILLN is delighted to welcome Austrian law firm Kinner Korenjak Law as one of its new members

The firm is based in Vienna, Austria, and focuses exclusively on employment law. Its founding partners, Wolfgang Kinner and Ingrid Korenjak, have many years of combined practice in employment law and aim to offer personal advice at the highest professional level. Their structure also allows them to implement projects and lawsuits of any complexity quickly and effectively.

With excellent references (Legal 500 and Chambers Europe), their lawyers also have extensive international experience. It is this international experience, combined with their expertise in employment law, that they wish to bring to the ILLN network.

Mr. Wolfgang Kinner says:

"We are delighted to have with ILLN the opportunity to actively participate in a structured, non-exclusive collaboration at European level. This opens up an additional network for our national and international clients. At the same time, it offers Kinner Korenjak LAW new strategic opportunities in the cross-border tendering of international projects."

WOLFGANG KINNER
Kinner Korenjak LAW

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