Collective dismissals in France

A high level outline of the obligations that apply in relation to a collective dismissal procedure in France.

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Contact Laurence Renard

Introduction

The considered dismissal of several employees for economic reasons triggers obligations for the employer, including informing and consulting the employee representatives.

Definition of a collective dismissal

A collective dismissal consists of dismissals for economic reasons involving at least two employees. This note applies only to the situations where the dismissal of more than 10 employees is being considered.

It is very difficult to have a fair reason to dismiss on economic grounds as economic difficulties are appreciated at the group’s level.

Procedure

Prior to making any economic dismissals, an employer is obliged to:

- consult with the employee representatives (ie obtain their opinion on the project). This can be very time consuming, although legal rules now provide for maximum time periods after which employee representatives are deemed to have given an opinion
- inform the Work Administration
- identify the employees to be dismissed (and, if necessary, establish an objective order for dismissal)
- look for alternative work for the employees to be dismissed within the company or the group, and
- offer the employees a reclassification scheme to help them find alternative employment.

Two different procedures apply depending on the number of employees within the company (less than 50 or 50 and more). More details are available here. In particular, in case of mass redundancy, the employee has the obligation to
implement a job saving scheme (PSE) to avoid or limit dismissals and provide assistance to employees.

**Obligations to inform and consult works councils**

The employees’ Social and Economic Council (SEC) must be consulted on any proposed collective dismissals.

**Obligations to inform and consult other representatives of employees**

The new SEC has merged all other previous representative bodies (namely Works Council, Health and Safety Committee and Staff Delegates). Therefore, the SEC is the only employee representative body to consult.

**Obligations to consult individual employees**

There is no obligation to consult individual employees.

**Obligations to notify public authorities**

The work administration DIRECCTE must be informed at various stages in a collective dismissal situation.

**Selection criteria**

The selection of the specific employees to be dismissed must be done according to objective selection criteria (family situation, length of service, difficulties in finding another job and professional qualities) applied by professional category.

**Obligations to search for alternative employment**

- Before dismissal, the employer must search for alternative work within the company and the group (even abroad) (failure to do so will lead to an unfair dismissal) and must offer a reclassification scheme to the employees whose dismissal cannot be avoided.
- After dismissal, employees benefit from a 12-month priority for reemployment if any suitable position becomes vacant.

**Penalties for failure to comply with notification requirements**

Fine of up to €3,750 (per employee affected by the collective dismissal) for failure to notify the Work administration.

**Penalties for failure to comply with consultation process**

Fine up of up to €3,750 (per employee affected by the collective dismissal) for failure to consult the employee representatives.

**Penalties for failure to comply with redundancy process**

- Damages of up to one month’s salary for failure to comply with the correct dismissal procedure.

- Capped damages for unfair dismissal (minimum and maximum amount of damages according to the size of the company and the employee’s length of service, which do not apply when the dismissal is deemed to be void).

    Obligation to reimburse to the Unemployment Benefit Fund up to six months of unemployment benefit paid to the
In case of failure to comply with rules on protected employees, their dismissal is held to be void.

**Notice periods**

Usually between one and three months. Employees can be released to work their notice period but should remain on the payroll.

Specific rules apply when the employee accept the benefit of a reclassification scheme.

**Compensation/termination payments due to employees**

See “Redundancy costs” below.

**Redundancy costs**

Redundancies are expensive. Employer must pay notice periods, statutory termination payment, any unused accrued holiday entitlement, reclassification scheme and possible damages in case of unfair dismissal.

**“Revitalisation” obligation**

Companies that carry out collective dismissals which significantly affect employment levels in their region may be required to make contributions.

**Settlement/waivers of claims**

Settlement agreement including a waiver of claims can be entered into.

**Other**

The above do not apply to company officers who are not employees or to independent contractors.

A specific and more restrictive dismissal procedure applies to employee representatives.

Further information on collective dismissals in France is available from our International Employment Issues microsite here.

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elexica Limited, CityPoint, One Ropemaker Street, London EC2Y 9SS