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European Monitoring Centre on Change

## Portugal: Staff information and consultation on restructuring plans

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Portugal

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

Last modified: 16 February, 2021

Native name: **Código do Trabalho**

English name: **Labour Code**

### 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;
- the criteria used in the selection of employees to be dismissed;
- 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).

## Comments

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.

### Cost covered by

Not applicable

### Involved actors other than national government

Trade union

Works council

### Thresholds

Company size by number of employees:

2

Number of affected employees:

2

### Sources

 Labour Code (Law 7/2009, of 12 February) – consolidated version

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