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Poland: Staff information and consultation on restructuring plans

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Poland

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

Last modified: 07 June, 2019

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'

English name:

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'

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.

Comments

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 legal regulation in this regard, which casts doubt on the correct implementation of the Directive 2002/14/EC establishing a general framework for informing and consulting employees in the European Community. Social partners do not raise this issue because both sides are rather sceptical about the relevance of works councils. Employers are generally of the opinion that they disrupt company management and trade unions often regard works councils as threats to themselves. There are however some initiatives to support work councils by NGOs.

It is important to emphasise that the number of works councils in Poland is extremely small. According to the latest available data (November 2016) from the Central Statistical Office, there were 18,104 companies employing 50 or more people in 2015. Of these, 14,724 companies employed between 50 and 249 people, and 3,380 companies employed more than 249 employees. According to the data from the Ministry of Family, Labour and Social Policy, only 3,520 works councils were registered by 28 February 2017. In many cases there is no available information whether they continue their activities for successive terms.

Cost covered by

Not applicable

Involved actors other than national government

Trade union
Works council

Thresholds

Company size by number of employees:

20

Number of affected employees:

10

Sources

- ▣ Trade Unions Act (in Polish)
- ▣ Information and Consultation Act (in Polish)
- ▣ Eurofound (2013), *National practices of information and consultation in Europe*, Dublin
- ▣ Sobczyk, A. (eds) (2008), *Informowanie i konsultacja pracowników w polskim prawie pracy*, Krakow
- ▣ Ius Laboris (2009), *Collective Redundancies Guide*, Brussels
- ▣ Kuczkowski, L. (2008), 'Poland', in van Kempen, M., Patmore, L. and Ryley, M. (eds), *The Redundancy Law in Europe*, Alphen van den Rijn
- ▣ Collective Dismissals Act (in Polish)
- ▣ GUS, *Podmioty gospodarcze według rodzajów i miejsc prowadzenia działalności w 2015 roku*
- ▣ Dialog społeczny, *informowanie i konsultowanie*
- ▣ Instytut Spraw Obywatelskich

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