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European Monitoring Centre on Change

Luxembourg: Staff information and consultation on restructuring plans

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Luxembourg

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

Last modified: 27 September, 2019

Native name: **Code du travail**

English name: **Labour code**

Article

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

Description

The employer must inform and consult employee representatives before any important decision on economic or financial matters that might have an impact on the structure of the firm or on the level of employment, and on any changes in technology, equipment and working methods and on the impact of these changes on working conditions. This includes measures such as vocational training and retraining planned 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 (150 employees or more) 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 sufficiently '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 individuals concerned.

Comments

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) has abolished

joint committees with effect from the date of the next workplace elections, scheduled in 2019. Therefore, the process described in the article L. 423-3 of the labour code will be abolished, too. From the date of these elections forward, the tasks and duties assigned to joint works committees will be 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. Until these elections take place, the joint works committees currently in place will continue to carry out their tasks.

Cost covered by

Not applicable

Involved actors other than national government

Employer organisation
Trade union
Works council

Thresholds



Company size by number of employees:

15

Number of affected employees:

7

Sources

-  [Labour code](#)
-  [Guichet.lu \(governmental website\) - Collective redundancies \(English\)](#)
-  [Guichet.lu \(governmental website\) - Licenciement collectif \(French\)](#)
-  DG Employment, Social Affairs and Equal Opportunities/Héra, 2011, Selected companies' legal obligations regarding restructuring
-  [EMCC legal framework of restructuring](#)

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