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## Spain: Definition of collective dismissal

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Spain

Phase:

Management

Type:

Definition of collective dismissal

Last modified: 24 October, 2017

Native name:

**Estatuto de los Trabajadores (ET); Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado laboral; Real Decreto 11/2013, de 2 de agosto, para la protección de los trabajadores a tiempo parcial y otras medidas urgentes en el orden económico y social**

English name:

**Statute of Workers' Rights; Law 3/2012 of 6 July on urgent measures to reform the labour market; Royal Decree law 11/2013 of 2 August, for the protection of part-time workers and other measures in the economic and social field**

### Article

Art. 51 modified by Art. 18.3 of Law 3/2012; Art. 41 modified by Royal Decree law 11/2013

### Description

To fall within the scope of legislation on collective dismissals, employers must plan to dismiss or make redundant between at least 10 and 30 employees (depending on the company size) within a period of 90 days.

The minimum thresholds for collective dismissals vary:

- at least 10 employees in companies with fewer than 100 employees;
- 10% of the workforce in companies employing between 100 and 299 employees;
- 30 employees in companies employing 300 or more employees.

The dismissal of the entire workforce also falls under the definition of collective dismissal provided that more than five employees are affected and this is due to the shut down of the business.

A collective dismissal must be based on economic, organisational, technical or production grounds. These must be justified by the employer.

The labour legislation reform implemented by means of Law 3/2012 eliminated the requirement of administrative authorisation for collective redundancies while maintaining the obligation of good-faith negotiations with employees' representatives. Royal Decree 11/2013 clarified how the negotiation commission must be established as well as the documentation that the employer has to provide to the legal employees' representative body (with a written copy submitted to the labour authority). This was made in order to reduce legal uncertainty regarding collective dismissal procedures.

The documentation that must be provided includes:

- Justification of the measure according to the concurrence of economic, technical, organisation-related or productive causes;
- Number and professional categories of the employees affected;
- Number and professional categories of the employees normally employed during the last year;
- Period foreseen for the execution of the dismissals;
- Full name of employees affected;
- Criteria taken into consideration for selection of dismissed workers;
- Information about the composition of the negotiation commission;
- In companies employing more than 50 employees, an accompanying social plan aiming to mitigate the consequences of the dismissals for the affected workers.

## Comments

The definition of collective dismissal has not been modified in the last years. Moreover, it has not been debated or discussed at policy or social dialogue level. Most relevant debates promoted by the employer organisations and Spanish government were about the degree of rigidity/flexibility of the causes that allow companies to justify the dismissal and other elements protecting workers' rights, such as the requirement to be authorised by the labour authority. This requirement was eliminated in 2012. Trade unions opposed these reforms (Eurofound, EurWORK, 2012)

### Cost covered by

Not applicable

### Involved actors other than national government

Regional/local government

Trade union

Works council

### Thresholds










Company size by number of employees:

6

Number of affected employees:

6

### Sources

-  Ius Laboris (2011), Individual Dismissals Across Europe, Brussels
-  Ius Laboris (2009), Collective Redundancies Guide, Brussels
-  Eurofound (2010), [EMCC legal framework of restructuring](#), Dublin
-  Alpha Consulting (2003), Anticipating and Managing Change - A dynamic approach to the social aspects of corporate restructuring, Brussels, European Commission
-  Rodríguez, R. and Calvo, J. (2010), National background paper Spain, Anticipating and managing restructuring in enterprises: 27 national seminars, ARENAS Report, European Commission, Brussels
-  [Statute of Workers' Rights](#)
-  [Law 3/2012](#)
-  [Royal Decree 11/2013](#)
-  Eurofound, EurWORK (2012), 'Unions oppose new law sanctioning greater flexibility', 4 March

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