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European Monitoring Centre on Change

Luxembourg: Effects of non-compliance with dismissal regulations

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Luxembourg

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 18 June, 2021

Native name: Code du travail

English name: Labour Code

Article

L.124-6 (individual dismissals), L. 166-2 (8)

Description

The effects of non-compliance with dismissal regulations differ according to the category of dismissal, notably whether these concern collective redundancy or individual dismissal.

• Collective redundancy

If an employer considers dismissing at least seven employees within a period of 30 days or 15 employees within a period of 90 days, he/she must enter into prior negotiations with employees' representatives with the view of establishing a social plan. The [social plan](#) is a written agreement signed by employer and employees' representatives. The aim is to avoid collective redundancies or to reduce the number of dismissals and to mitigate the consequences of the redundancies. If the employer fails to negotiate on those issues, the dismissals are deemed null and void.

If an employee is notified of his/her dismissal before the information/consultation process or before the social plan is signed, the dismissal is equally deemed null and void. This rule applies also in the event where the parties have failed to reach an agreement, before the non-conciliation report of the National Conciliation Service's (Office national de conciliation - ONC) joint conciliation committee has been signed. Consequently, the dismissed employees must be reinstated. Employees dismissed within a collective dismissal not conforming with the law are entitled to claim financial compensation for unfair dismissal before the labour court.

• Individual dismissal

In the event of gross misconduct by the employee, the employer may terminate the contract without notice in the case of a contract concluded for an indefinite period of time, and before the end of its term in the case of a fixed-term contract.

Otherwise, if the employer terminates the employment contract before the end of the notice period stipulated by Articles L. 124-4 and L. 124-5 of the Labour Code, he/she must pay the employee a compensation in lieu of notice equivalent to the salary during the notice period. This compensation comes on top of the severance allowance and damages for unfair dismissal.

Comments

No information available.

Cost covered by

Employer

Involved actors other than national government

Other

Involvement others

Labour tribunal

Thresholds





Company size by number of employees:

7

Number of affected employees:

7

Sources

-  [Labour Code](#)
-  [Guichet.lu \(governmental website\) - Collective redundancies \(English\)](#)
-  [Guichet.lu \(governmental website\) - Licenciement collectif \(French\)](#)
-  [EMCC legal framework of restructuring](#)

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