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Lithuania: Staff information and consultation on restructuring plans

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Lithuania

Phase:

Anticipation

Type: Staff information and consultation on restructuring plans

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Native name:	Darbo kodeksas Nr. XII-2603, LR juridinių asmenų nemokumo įstatymas Nr. XIII-2221
English name:	Labour code No XII-2603, Law on insolvency of legal entities No XIII-2221

Article

Labour code (203, 206, 207, 209), Law on insolvency of legal entities (3, 104)

Description

The Labour code provides that employees have the right, through the works council, to be informed and to participate in consultations with employers and their representatives on matters related to the implementation and protection of the labour, economic and social rights, and interests of employees (article 203).

With respect to staff information and consultation for business transfers as well as for collective redundancies, the Labour code states the obligation of the employer with an average of 20 employees or more to inform employees and to consult with them in the confirmation of local labour legal norms (for instance, work rules, the introduction of new technologies and the protection of employees' private life). Employee representatives need to be informed about these forthcoming decisions before their confirmation and they have the right to submit remarks and proposals as well as to initiate consultations (article 206).

Before taking a decision on collective redundancies, the employer must inform and hold consultations with the works council. At least 7 working days before the beginning of the planned consultation, the employer must provide the works council with written information on (article 207):

- the reasons for the planned dismissal;
- the total number of employees and the number of redundancies, by category;
- the period during which the employment contracts will be terminated;
- the selection criteria for redundancy;
- the terms of employment contract termination and other relevant information.

The employer must hold consultations for at least 10 working days from the first day of consultation unless the works council agrees to a different term. On the basis of the information provided, consultations with the works council shall begin within five days of receipt of the information, with the aim of agreeing on which methods and measures can be used to avoid the collective redundancy or to reduce the number of redundancies, as well as to mitigate the consequences of this redundancy through additional social measures. Consultations must be aimed at coming to an agreement between the employer and the works council. The employer-level trade union must be informed by the works council about the course of consultations and the employer-level trade union is entitled to express its opinion to the works council and the employer (article 207).

If an employer has violated the obligations of information and consultation, the works council or the trade union shall be entitled to initiate a labour dispute on rights within two months of finding out about the violation. The State Labour Inspectorate shall control how employers fulfil the obligation of informing and consulting employees (article 209).

The Law on insolvency of legal entities of the Republic of Lithuania (article 3) stipulates that the insolvency process must be based on the principle of transparency. The principle of transparency means that information on insolvency proceedings must be made available in a timely manner to all the employees involved in the insolvency proceedings in order to ensure the protection of their rights and legitimate interests, except for the protection of legally protected personal data or commercially confidential information (trade secrets). The law also provides guidelines for the company restructuring plan. According to article 104 of the law, the restructuring plan needs to include the following:

- a short description of the legal entity (including the nature of activities, the list of assets held and the number of employees);
- reasons behind the financial difficulties of the legal entity and the extent of difficulties;

- purposes of restructuring of the legal entity;
- a period of implementation of the restructuring plan;
- a list of creditors specifying: where the creditor is a natural person – the name, surname and address of the residence; where the creditor is a legal person – the name and address of the registered office and/or place of operations; the amount of claims, the time limits for the settlement thereof and measures of securing thereof;
- a list of creditors affected by the restructuring plan, by groups of creditors;
- guarantees and other safety measures to secure the discharge of obligations which the company has granted to third parties (with indication of the third parties, the credits granted to third parties and the amount of guarantees and other safety measures);
- information related to the cases in which financial claims have been entered against the legal entity;
- information on cases in which property claims have been filed against the legal entity;
- a list of the debtors of the legal entity (as for those with pending legal proceedings, the name and address of the debtor should be provided if he or she is a natural person; or the name, legal entity's identification number and registered office address should be provided if he or she is a legal person), amount claimed, time limits for discharge and methods of securing the discharge;
- creditors' assistance in overcoming financial difficulties;
- information on new financing, indicating the amount and terms of anticipated loans;
- a comparison of possibilities for satisfying creditors' claims in terms of value in cases of restructuring and bankruptcy of the legal entity;
- assessment of the economic and legal feasibility of the measures provided for in the restructuring plan;
- an estimate of the costs of administering the restructuring process;
- a business plan of the legal entity, specifying measures to overcome financial difficulties;
- other information which the head of the legal entity deems to be relevant.

Labour relations on ships are regulated by Lithuanian labour law provisions if these ships sail under the flag of the Republic of Lithuania.

Comments

Although the Law on insolvency of legal entities provides a detailed list of guidelines for the enterprise restructuring plan, it does not foresee any consultation with works councils or trade unions on these plans.

Cost covered by

Not applicable

Involved actors other than national government

Trade union
Works council
Other

Involvement others

State Labour Inspectorate

Thresholds




Company size by number of employees:

20

Number of affected employees:

10

Sources

-  [Labour code No XII-2603](#)
-  [Law on insolvency of legal entities No XIII-2221](#)
-  [Transposition table of the Directive 2015/1794 to the Lithuanian law](#)

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Contact us

Eurofound, Wyattville Road, Loughlinstown, Co. Dublin, D18 KP65, Ireland

Phone: (00) 353 1 2043100

E-Mail: information@eurofound.europa.eu

Press: media@eurofound.europa.eu



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