

Luxembourg: Employers obligation to support redundant employees


Luxembourg

Phase:

Management

Type:

Employers obligation to support redundant employees

 Last modified: 14 June, 2021

Native name:

Code du travail

English name:

Labour Code

Article

L. 166-2 and L. 166-3

Description

In cases of dismissal of at least 7 employees within 30 days or at least 15 employees in 90 days, the employer has to negotiate a social plan with the employees' representatives including the staff committee (*délégation du personnel*) or the joint committee (*comité mixte*) and representative unions if the employer is bound to a collective agreement.

In the framework of 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 (<http://legilux.public.lu/eli/etat/leg/loi/2015/07/23/n3/jo>)) (EurWork, Luxembourg: Reform of employee representation in companies (<http://www.eurofound.europa.eu/observatories/eurwork/articles/industrial-relations/luxembourg-reform-of-employee-representation-in-companies>), 15 December 2015) it should be noted that joint committees will cease to exist after work place elections which take place after 1 January 2016 (and at the latest after the work place election scheduled of 2019). As from these elections, the tasks and duties assigned to joint 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, the joint committees currently in place will continue to carry out their tasks.

The aim is to negotiate in order to reach an agreement on the social plan in the framework of a detailed process. It differs from the job retention plan that may only be discussed (and not negotiated) with employees' representatives to anticipate a redundancy scheme.

These negotiations must focus on the possibilities of avoiding or reducing the number of redundancies but also reducing the consequences by means of internal redeployment within the company; retraining; reintegration into the job market and/or a more favourable financial compensation than established by law. Social plans often include measures that will assist the redundant workers. Among the most commonly implemented are outplacement services providing guidance and advice to the employee on their professional and personal situation and support to find a new position; training or financial support for geographic mobility or business creation.

The negotiation process is the following:

- If negotiations are successful, the redundancy plan must be formalised in written form and at least contain the measures agreed upon regarding redeployment, retraining, reintegration and financial compensation as well as all the parties' views with regard to these measures. After being signed by both parties, a copy of the redundancy plan must be sent to the the public employment service (ADEM) which, in turn, will send a copy to the labour inspectorate (ITM).
- If the negotiations fail, the social partners must consult ADEM which will inform ITM and the National Conciliation Service (*Office national de conciliation, ONC*) indicating the names and positions of the members (management and employees' representatives) who will take part in the joint conciliation committee aiming to reach a common position.
- If the intervention of the ONC does not lead to the implementation of a redundancy plan, the employer may dismiss the chosen number of employees without a redundancy plan as soon as the non-conciliation report is submitted, by following the terms and procedures applicable to individual dismissal, while respecting the minimum notice periods for collective redundancies. When the redundancy plan is approved, the employer may begin to implement collective redundancies.

Cost covered by

Employer

Involved actors other than national government

Employer organisation
Public employment service
Trade union
Works council
Other

Involvement others

Tripartite Economic Committee (Comité de conjoncture); experts;
Labour inspectorate (ITM) ; National Conciliation Service (Office national de conciliation, ONC)

Thresholds


Company size by number of employees:


7


Number of affected employees:

7

Sources

 Labour Code (<http://data.legilux.public.lu/file/eli-etat-leg-code-travail-20190201-fr-pdf.pdf>)

 Guichet.lu (governmental website) - Collective redundancies (English) (<http://www.guichet.public.lu/entreprises/en/ressources-humaines/fin-relation->

travail/licenciement-resiliation/licenciement-collectif/index.html)
 Guichet.lu (governmental website) - Licenciement collective (French)
(<http://www.guichet.public.lu/entreprises/fr/ressources-humaines/fin-relation-travail/licenciement-resiliation/licenciement-collectif/index.html>)

Revision log summary