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European Monitoring Centre on Change

Poland: Effects of non-compliance with dismissal regulations

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Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 07 June, 2019

Native name:	Ustawa z dnia 13.03.2003 o szczególnych zasadach rozwiązywania z pracownikami stosunków pracy z przyczyn niedotyczących pracowników; Ustawa z dnia 23.05.1991 r. o związkach zawodowych; Ustawa z dnia 26.06.1974 r. -Kodeks pracy; Ustawa z dnia 6.06.1997 r. -Kodeks karny
English name:	Act of 13.03.2003 on special principles of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'; Act of 26.06.1974 - Labour Code; Act of 23.05.1991 on trade unions; Act of 6.06.1997 - Criminal Code

Article

Article 12 of the Act of 13.03.2003 on special rules of termination of employment contracts with employees for reasons not related to employees - 'Collective Dismissals Act'; Article 45 and 50 of Act of 26.06.1974 - Labour Code; Article 35 of the the Act of 23.05.1991 on trade unions; Article 218 of the Act of 6.06.1997 - Criminal Code

Description

If an employer breaks the rules on procedure, notice periods or related severance pay for dismissals or the rules of collective dismissals (within 30 days, dismissals of at least 10 employees in companies with 20-99 workers, at least 10% in firms with 100-299 employees or 30 dismissals in larger companies), employees may (individually) file a complaint to the labour court. The type of claim depends on the type of labour contract. On the basis of article 45 of the Labour Code, if an employee has an indefinite contract he/she can choose between receiving financial compensation (1-3 month salary) or claim reinstatement of the labour contract. On the basis of article 50 of the Labour Code, an employee on a fixed-term contract may only receive financial compensation (1-3 month salary).

If the employer does not perform the obligation to consult with the trade union, it can be seen as hindering trade union activities (article 35 of the act on trade unions) and he/she is subject to a fine or penalty of restriction of liberty. This penalty generally is up to 2,000 zloty (about €480) and, in special situations, up to 5,000 zloty (about €1,200) if imposed by the labour inspectorate or 10,000 (€2,400) to 30,000 zloty (€7,200) if imposed by the court.

Article 218 of the Criminal Code has some significance in this respect and paragraph 1a states that 'whoever, when performing activities in the field of labour law and social security, maliciously or persistently performs violation of employees' rights resulting from employment or social security, is subject to a fine, penalty of restriction of liberty or penalty of imprisonment of up to 2 years.'

Comments

According to the verdicts of the supreme Court (SN 23.01.1991 I PR 452/90 and SN 4.12.2008 II PK 137/08) issues which are not regulated in the Collective Dismissals Act should be resolved in accordance with the Labour Code. These verdicts show that during collective dismissal employees have the same claims before labour court (claim for compensation or claim for reinstatement) as in case of individual dismissal.

According to police data, 1,271 cases were filed for infringement of employees' rights (Article 218 of the Criminal Code) in 2016. For comparison, 1,250 cases were filed in 2015.

Statistics indicate the rare application of article 35 of the Act on trade unions. In most cases the employer is not fined.

Cost covered by

Employer

Involved actors other than national government

Other

Involvement others

Court

Thresholds








Company size by number of employees:

20

Number of affected employees:

10

Sources

-  [Collective Dismissals Act \(in Polish\)](#)
-  [Labour Code \(in Polish\)](#)
-  [Criminal Code \(in Polish\)](#)
-  [Verdict of the Supreme Court SN 4. 12. 2008 II PK 137/08 \(in Polish\)](#)
-  [Statystyka policja, Naruszenie praw pracownika \(218\)](#)
-  [Ius Laboris \(2009\), Collective Redundancies Guide, Brussels](#)
-  [Kuczkowski, L. \(2008\), 'Poland', in van Kempen, M., Patmore, L. and Ryley, M. \(eds\), The Redundancy Law in Europe, Alphen van den Rijn](#)

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