



European Monitoring Centre on Change

# France: Staff information and consultation on restructuring plans

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France

Phase:

Anticipation

Type:

Staff information and consultation on restructuring plans

Last modified: 22 March, 2023

Native name:	Code du travail
English name:	Labour Code

## Article

L.2323-3 to L.2323-6, L.2323-7-1, L.2323-7, L.2323-15 to L.2323-19, L.2325-35, L.2325-42-1, L.1233-8 to L.1233-10, L. 1233-24-1, L.1233-28 to L.1233-34, R. 2323-1, R. 2323-1-1

## Description

The employer has to inform and consult the works council about all changes affecting the organisation of the company, such as restructuring, in due time. The latter provides a non-binding opinion. The works council has to give its opinion according to certain time limits, set up by a collective agreement with the employer or, at least in general, 1 month after it received the information provided by the employer for its consultation or after the employer provides this information through the 'Economic and social database' ('base de données économiques et sociales'). The consultation period of the works council (or central works council) is extended to 2 months if the works council asked to be assisted by an external expert paid by the employer; 3 months if one or several health and safety committee(s) (CHCST) have to be consulted and 4 months if an ad-hoc central health and safety has been set up for the purpose. If the works council does not meet the different deadlines, it is deemed to have been properly consulted and to have provided a negative opinion.

Certain extra conditions apply in the case of collective dismissals. The employer must give employee representatives all relevant information regarding the dismissals, such as the economic, financial or technical reasons for the dismissals, the number of dismissals planned, the professional categories concerned and the method of selection of employees, the number of employees working in the company, a provisional timetable and the economic measures considered.

If the employer plans to dismiss at least 10 employees over a 30 day period, they also have to inform the employee representatives about:

- internal or external redeployment measures for companies employing fewer than 50 employees;
- the redundancy plan for companies employing more than 50 employees.

In companies employing fewer than 50 employees, staff representatives are consulted and hold 2 meetings that are separated by a maximum of 14 days. In companies employing more than 50 employees, the works council has to hold at least 2 meetings separated by a minimum of 15 days. Thereafter, the works council has to give its opinion according to a certain deadline :

- 2 months if the number of dismissals is less than 100
- 3 months if the number of dismissals is between 100 and 249
- 4 months if the number of dismissal is over 249

In all cases if the works council does not meet the deadline, it is deemed to have been properly consulted. The employer can implement and apply its restructuring plan regardless of the works council's opinion (consultation rights only).

After informing the employee representatives for the first time, the employer may start to negotiate with the representative unions a company-level agreement on the employment security plan ('Plan

de sauvegarde de l'emploi'). Alternatively, the employer can unilaterally draft a document on the employment security plan and the terms of the employee information and consultation process.

In both cases, the works council, where deemed necessary, may call in an outside expert of their choice, at the employer's expense to advise them on collective redundancies involving 10 or more employees. The law stipulates the process of obtaining external expertise in great detail (Labour Code, [article L. 1233-34](#) and [L. 1233-35](#)).

The employer has to inform the labour inspectorate of its restructuring plan the day after the first information meeting with the employee representatives. The labour inspectorate verifies whether the information and consultation requirements are respected and may suggest improvements to the employment security plan. The labour inspectorate has to approve the company-level agreement on the employment security plan or the unilateral document drafted by the employer. If the employer does not obtain the approval of the labour inspectorate the dismissals are void.

Finally, the Labour Code includes a provision upon which the employer of companies with more than 1,000 employees has an obligation to inform its works council if the company is planning to close a site that will lead to a collective dismissal. The employer has to provide information about its efforts to look for a buyer for the take over of the site, and about the different means and tools to be used by the employees to take over the site (as the creation of a cooperative company). The measure replaces a former provision of the Labour Code that stipulated that the employer in such situation was obliged to look for a take-over.

## Comments

Collective bargaining agreements may amend the minimum legal requirement for consultation procedures. The economic and social database ('[base de données économiques et sociales](#)') contains economic and social information and was introduced by the Employment Security Act (loi sur la sécurisation de l'emploi) on 14 June 2013. The database consists of all the company data which have to be sent to the works council on a regular basis as well as the information necessary for the works council's annual consultation on the establishment's strategic direction and its consequences. The law was implemented gradually. By 14 June 2014, establishments with 300 or more employees had to have a complete database in place. The deadline was 14 June 2015 for businesses having fewer than 300 employees.

### Cost covered by

Employer

### Involved actors other than national government

Works council

Other





### Involvement others

Experts

### Thresholds

No, applicable in all circumstances

### Sources

-  [Labour Code](#)
-  [Governmental website on Labour law \(Fermeture d'un établissement : obligation de rechercher un repreneur\)](#), in French
-  [Ministry of Labour website, La procédure en cas de licenciement collectif pour motif économique](#)
-  [Base de données économiques et sociales \(BDES\)](#)

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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](mailto:information@eurofound.europa.eu)

Press: [media@eurofound.europa.eu](mailto:media@eurofound.europa.eu)



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