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# EMCC

European Monitoring Centre on Change

## Belgium: Effects of non-compliance with dismissal regulations

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Belgium

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 10 December, 2021

Native name:

**Loi du 13 février 1998 portant des dispositions en faveur de l'emploi dite loi Renault /Wet van 13 februari 1998 houdende bepalingen tot bevordering van de tewerkstelling (Wet Renault); Convention collective de travail no. 109 du 12 février 2014 concernant la motivation du licenciement/Collectieve arbeidsovereenkomst nr. 109 van 12 februari 2014 betreffende de motivering van het ontslag**

English name:

**Law of 13 February 1998 regarding measures in favour of employment (so-called 'Renault Law'); Collective Agreement n°109 of 12 February 2014 on justified dismissal**

### Article

Act of 13 February 1998: articles 62-70; Collective Agreement nr. 109 of 12 February 2014: article 7.

### Description

The national legislation makes it possible to take action against employers who fail to comply with the information and consultation requirements of the employee representatives (works council in the first place) specified in collective dismissal regulations.

In case of collective redundancy (corresponding to cases where, within 60 days, there are at least 10 dismissals in companies with 20-99 employees, at least 10% in companies with 100-299 employees, and at least 30 dismissals in companies with 300 or more employees), if workers and/or unions' representatives consider that the employer fails to comply with such requirements (such as information and consultation procedures), objections can be launched to the regional employment office during the procedure or during the 30 days waiting period. During this period, the employer cannot proceed to any layoff. If no objections are expressed during this period, the law assumes that the employer has respected the necessary requirements and the employer is allowed to proceed with the collective dismissal at the end of it. However, if objections regarding the information and consultation procedure are expressed, the regional employment office may extend the waiting period up to 60 days in order to allow time to find a solution. If objections are more related to non-compliance with the collective dismissal regulations, they may be expressed to the labour court, extension may apply here as well.

The main sanction that can be used involves halting the dismissal of workers or even reinstatement, although this happens very rarely, as in practice unions and employers most of the time quickly go to the next step of bargaining a 'social plan' to obtain (extra) severance payments. However, as soon as a complaint is made during the adequate period, the notice period is adjourned.

Collective Agreement nr. 109 formalises the right of an employee formalises the right of an employee to know the reasons that have led to his or her dismissal, and the right to a restitution in case of an apparent unreasonable dismissal. Failure of the employer to to fulfil the request of an employee to know the reasons of their dismissal is sanctioned with a fine equivalent to two weeks of pay of the employee involved (Art. 7). If a dismissal of an employee is deemed unreasonable, it is sanctioned with a fine equivalent to three to seventeen weeks of pay, depending on the degree of unreasonableness (Art. 9).

### Comments

In the period from January 2021 to March 2021, 36 technical business units initiated an information and consultation procedure.

Between January 2020 to December 2020, 103 technical business units initiated an information and consultation procedure.

Between January and September 2019, 61 companies started an information and consultation procedure.

In 2018, 87 companies announced an intention to proceed with collective dismissals.

The period January to December 2017 was a historically low year both in terms of the number of layoffs announced (3829) and the number of proceedings initiated (62).

From January 2016 until December 2016, 118 companies started an information and consultation procedure, involving 12,042 employees. In total, 83 companies have finalised the procedure, as communicated by the Ministry of Labour. This ministry has to be notified when a company starts such a procedure of collective dismissal.

#### Cost covered by

Employer

#### Involved actors other than national government

Public employment service

Trade union

Works council

Other

#### Involvement others

Labour court

#### Thresholds

No, applicable in all circumstances

#### Sources

- Wet houdende bepalingen tot bevordering van de tewerkstelling
- Federal Public Service Employment, Labour and Social Dialogue (in French - in Dutch)
- Ius Laboris (2009), Collective Redundancies Guide, Brussels
- EMCC legal framework of restructuring
- Monitoring Innovative Restructuring in Europe (documents for Belgium)
- Restructuring in Belgium
- Bingen A., Hégale M. and Layon E. (2006), L'accompagnement des travailleurs licenciés collectivement, Courrier hebdomadaire n° 1943-1944
- Dorssemont F. (2006), 'The Renault Saga (revisited)', European Company Law, Issue 1 (3), pp. 5-10
- Moulaert T. (2013), L'outplacement des 45 ans et plus en Belgique. Une tentative avortée de gouvernement à distance des fins de carrière ?, Retraite & Société, (1) 64
- Collective Agreement n°109 of 12 February 2014 on justified dismissal
- Werk.be: Collective redundancies in the period from January 2020 to December 2020

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