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EMCC

European Monitoring Centre on Change

Spain: Obligation to consider alternatives to collective dismissals

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Spain

Phase:

Management

Type: [Obligation to consider alternatives to collective dismissals](#)

Last modified: 24 October, 2017

Native name:

Ley 3/2012, de 6 de julio, de medidas urgentes para la reforma del mercado laboral; Real Decreto 801/2011, de 10 de junio, por el que se aprueba el Reglamento de los procedimientos de regulación de empleo y de actuación administrativa en materia de traslados colectivos; Estatuto de los Trabajadores; Real Decreto 43/1996, de 19 de enero, por el que se aprueba el Reglamento de los procedimientos de regulación de empleo y de actuación administrativa en materia de traslados colectivos

English name:

Law 3/2012 of 6 July on urgent measures to reform the labour market; Royal Decree 801/2011 of 10 June that enacts Regulation of the procedures of employment regulation and administrative measures in cases of collective relocation; Statute of Workers' Rights; Royal Decree 43/1996 of 19 January that approves the rules of the procedures of employment regulation and administrative actions in collective transfers

Article

Art. 9 Royal Decree 801/2011; Art. 51 Statute of Workers' Rights; Royal Decree 43/1996; Art. 18.3 Law 3/2012

Description

During the consultation period of a collective dismissal (within 90 days, more than 5 employees made redundant if the whole workforce is affected; at least 10 employees in companies with fewer than 100 employees; 10% of the employees in companies between 100 and 299 employees; and at least 30 employees in companies with more than 299 employees), employers and workers' representatives discuss not only the motivating reasons of the restructuring or downsizing, but also the possibility of avoiding or reducing its effects, as well as on the necessary measures to attenuate its consequences for the affected workers.

For example, management and workers' representatives can agree on measures such as the use of outplacement companies or training for the improvement of workers' employability or others measures to guarantee the future viability of the undertaking.

In undertakings with 50 or more employees, the employer must provide a social plan to the public authorities and workers' representatives. The social plan must include:

- measures intended to avoid or reduce the effects of restructuring – for instance, internal redeployment, functional or geographical mobility, substantial modifications of contractual conditions, training or retraining measures;
- measures aimed at reducing the effects of restructuring on employees;
- external relocation, training and retraining actions;
- promotion of self-employment;
- financial compensations for geographical mobility;
- economic, technical, organisational and other types of measures intended to make the continuance of the undertaking and its activity possible.

Companies have to carry out a special training and redeployment plan of at least 6 months implemented by means of an authorised outplacement company if the collective dismissal affects over 50 employees.

Comments

Overall, measures and practices that are reported in the media that are more common across several sectors are: early retirement, voluntary and incentivised exits and, to a lesser extent, relocation. Restructuring measures involving training and retraining actions or promotion of self-employment are not commonly used. Recent collective dismissals (since 2012, when the financial assistance programme

for the recapitalisation of financial institutions was approved) reported in the media affecting the financial sector show, for instance, that voluntary and incentivised leaves, together with early retirement measures, are the most common alternatives implemented.

Cost covered by

Employer

Involved actors other than national government

Trade union

Works council

Other

Involvement others

Authorised outplacement companies

Thresholds







Company size by number of employees:

6

Number of affected employees:

6

Sources

-  DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring
-  Eurofound (2010), EMCC legal framework of restructuring, Dublin
-  Royal Decree 801/2011
-  Law 3/2012
-  Statute of Workers' Rights
-  Royal Decree 43/1996

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