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Netherlands: Public authorities information and consultation on dismissals

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Netherlands

Phase:

Anticipation

Type:

Public authorities information and consultation on dismissals

Last modified: 10 December, 2021

Native name:

Burgerlijk Wetboek (toestemming UWV); Ontslagregeling UWV; Wet arbeidsmarkt in balans (WAB) van 1 januari 2020

English name:

Civil code (dismissal permit); Royal decree on dismissal; Balanced labour market act of 1 January 2020

Article

Article 7:671a of the Civil code; whole Royal decree on dismissal; Article XII, XIII, XIV and XV of Balanced labour market act of 1 January 2020

Description

Effective from 1 July 2015, a new procedure with regard to dismissal permits applies. According to article 7:671a of the Civil code, in case of restructuring for business reasons (which in practice is the sole reason for restructuring), the employer needs a dismissal permit from the public employment service (UWV), if the employee and the employer do not come to an agreement. This is the procedure for dismissals which are not collective in nature (that is, under 20 people from the same branch or region of an enterprise branch). However, it is possible that binding collective agreements stipulate that a sectorial committee takes a request for collective dismissal (if an employer intends to dismiss or has dismissed at least 20 employees in one or more locations of the same company within one and the same region of the public employment service within 3 months due to reorganisation for economic reasons) into consideration instead of the UWV.

In the request for a dismissal permit, an argument has to be made to explain why a collective dismissal is necessary. There are several reasons for collective dismissals that are recognised as valid by the UWV:

- Bad or worsening financial situation of the enterprise;
- A decrease in demand and a subsequent decrease in available labour;
- Changes in technology or in the organisation of the company;
- Cessation of business activities;
- Movement of business activities to another location (only if this is necessary from a business perspective);
- Cessation of labour market subsidies for a sufficient number of employees.

This permit is also needed in case of dismissal after long-term illness and disability, when illness has lasted over 2 years and reintegration in the labour market is not possible in the foreseeable future. In these cases, a transition payment has to be made by the employer and dismissal with permission from the public employment service is possible.

With the Balanced labour market act (2020), a new ground for dismissal has been introduced: the cumulation ground. Dismissal is possible when circumstances from the various grounds for dismissal that are submitted through the subdistrict court together provide a reasonable ground for dismissal. In the event of dismissal on the basis of the cumulation ground, the court may award additional compensation to the employee.

Involvement of cantonal courts

In other cases, it is the cantonal court that decides. In case the collective agreement contains an arrangement on special bipartite boards, established by the social partners, the employer has to apply for the permit from this board. In both cases, employers and employees get the opportunity to be informed and consulted. Appeals are possible.

Comments

The view of employer organisations was that although the new 2015 procedure aimed to simplify and relax dismissal regulation, the rules still need improvement. The main point for improvement was, according to the umbrella employer organisation VNO-NCW, a further

simplification and increase of the accessibility of dismissal permits. In their view, it is particularly important for small and medium enterprises (SMEs) to be able to complete collective dismissal procedures swiftly in order to continue their business. They said these changes should have been taken through further elaboration and adjustment of dismissal regulations via the new Balance on the labour market act (Arbeidsmarkt in balans) which has taken effect since 1 January 2020.

The unions were strongly against a further simplification, arguing that the 2015 tripartite deal was a very recent one. Apart from the cumulation ground (mentioned above), no other simplifications were introduced in the Balance on the labour market act.

In 2020, there were more than 31,700 redundancy applications, almost twice as many as a year earlier. This doubling is mainly due to the dismissal applications for business and economic reasons, which amounted to 28,300 applications. The total number of applications for dismissal has almost doubled compared to 2019 (+99%), and the number of applications for economic reasons is more than doubled (+113%). Most of the redundancy applications for business reasons were in industry (7,000), trade (5,400), business services (5,300) and catering (3,300).

In the first quarter of 2021, the number of redundancy requests is 27% higher than the number in the first quarter of 2020. The number of dismissal applications for economic reasons is 40% higher. The number of dismissal permits issued in the first quarter of 2021 is 19% higher than the number in the first quarter of 2020.

Cost covered by

Not applicable

Involved actors other than national government

Employer organisation
Public employment service
Trade union
Other

Involvement others

Cantonal courts

Thresholds

No, applicable in all circumstances

Sources

-  [Article 7:671a Civil code \(Dutch\)](#)
-  [Royal decree on dismissal of 1 July 2016](#)
-  [Dismissal law viewpoint of employer organisations \(Dutch\)](#)
-  [Article on dismissal permits in 2015 \(Dutch\)](#)
-  [Dismissal permits \(Dutch\)](#)
-  [Changes to the Law on labour and security per 1 July 2015 \(Dutch\)](#)
-  [Unions very angry about employers demand for further simplification of dismissal legislation \(Dutch\)](#)
-  [UWV \(2021\), Duiding Arbeidsmarktontwikkelingen april 2021](#)
-  [Wet arbeidsmarkt in balans \(WAB\)](#)

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