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## Malta: Definition of collective dismissal

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Malta

Phase:

Management

Type:

Definition of collective dismissal

Last modified: 26 January, 2021

Native name:

**Legislazzjoni Sussidjarja 452.80 - Regolamenti dwar Sensji Kollektivi (Harsien ta' l-Impjiegi) (Avviż Legali 428 tal-2002 kif emendat bl- Avviżi Legali 427 u 442 tal-2004 u Avviż Legali 281 of 2017)**

English name:

**Subsidiary Legislation 452.80 - Collective Redundancies (Protection of Employment) Regulations (Legal Notice 428 of 2002 as amended by Legal Notices 427 and 442 of 2004 and L.N. 281 of 2017)**

### Article

Article 2 - Collective Redundancies (Protection of Employment) Regulations, 2002 as amended by L.N. 428 of 2002 as amended by L.N. 427 of 2004; LN 442 of 2004; L.N. 281 of 2017

### Description

'Collective redundancy' in the Collective Redundancies (Protection of Employment) Regulations is defined as the termination of the employment by an employer on grounds of redundancy, over a period of 30 days, of:

- 10 or more employees in establishments normally employing more than 20 employees but less than 100 employees;
- 10% or more of the number of employees in establishments employing 100 or more but less than 300 employees; and
- 30 employees or more in establishments employing 30 employees or more.

Any planned collective redundancies shall only take effect 30 days after the employer notifies the Director General responsible for Employment and Industrial Relations (the national competent authority) and the employee representatives of the said redundancies, unless a shorter period of notification is granted by the Director General in exceptional circumstances. The Director General for Employment and Industrial Relations may also extend the period by a further 30 days. This extension is granted if the Director General considers that it would help the parties involved to find a solution that would be beneficial to the employees planned to be dismissed.

### Comments

Labour legislation and related amendments are discussed at formulation stage in the tripartite Employment Relations Board (ERB). Members forming this board come from trade unions, employer associations and the government.

#### Excluded from regulations

The Collective Redundancies (Protection of Employment) Regulations do not apply to terminations of employment effected under contracts of employment concluded for limited periods of time or for specific tasks, except where such terminations take place prior to the date of expiry or the completion of such tasks and the reason for such prior termination is the redundancy of the employees terminated.

#### Concern of trade unions

While the transposition of EU labour related directives into Maltese laws (including the one concerning collective redundancies) failed to generate any national debate (Rizzo, 2009), the matter that most concerned trade unions was the legal term 'employee representatives'. Their major concern was that it may lead to the establishment of representative bodies in which trade unions are absent which employers may recognise as proxy employee representatives. It was feared that such recognition might eventually undermine the legitimacy and activities of proper trade unions. Trade unions maintained that enforcement authorities should concentrate their efforts on non-unionised undertakings since the unionised ones are adequately dealt with by trade unions (Baldacchino, 2009). However, it appears that over the years, the legislation did not result in tangible setbacks to the trade union movement in Malta, as trade unions kept their vital role during cases of collective dismissals.

**Cost covered by**

Not applicable

**Involved actors other than national government**

Employer organisation

Trade union

Other

**Involvement others**

Employment Relations Board; Department of Industrial and Employment Relations

**Thresholds**

Company size by number of employees:


21

Number of affected employees:

10


**Sources**

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 Watson Wyatt (2006). Employment Terms & Conditions Report Europe, Volume I, Brussels, Belgium

 [Subsidiary Legislation 452.80 - Collective Redundancies \(Protection of Employment\) Regulations, 2002](#)

 Baldacchino, G. (2009). Trade Unions in Malta (Report 110). Brussels, Belgium: European Trade Union Institute

 Rizzo, S. (2009, May). Not quite there: Europeanising Malta's industrial and employment relations

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