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France: Definition of collective dismissal

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France

Phase:

Management

Type:

Definition of collective dismissal

Last modified: 10 October, 2019

Native name: Code du travail

English name: Labour code

Article

L.1233-3, L.1233-8 to L.1233-20, L.1233-21 to L.1233-57

Description

According to article 1233-3, a collective dismissal on economic grounds (*licenciement pour motif économique*) is the dismissal by the employer for one or more reasons, which are not inherent to the employee and derive from the employment suppression or transformation or from the modification, rejected by the employee, of the employment contract.

There are four reasons that allow the employer to dismiss employees on economic grounds:

- Economic difficulties, depicted either by a sustained trend in at least one economic indicator (for instance, turnover) or by any other factor capable of justifying these difficulties;
- Technological change;
- Reorganisation of the company aimed at safeguarding its competitiveness;
- Cessation of business.

An economic indicator presents a sustained trend, if the duration is, in comparison with the same period of the previous year, at least equal to:

- One quarter, for companies with a workforce of fewer than 11 employees;
- Two consecutive quarters, for companies with a workforce between 11 and 49 employees;
- Three consecutive quarters, for companies with a workforce between 50 and 299 employees;
- Four consecutive quarters, for companies with a workforce of 300 employees or more.

Job reductions, employment changes and employment contract modifications need to be assessed at the company level.

Economic difficulties, technological change and reorganisation of the company need to be assessed at the company level. If the company is part of a group, the scope of assessment for economic grounds is limited to companies within the group that refer to the same economic sector of activity and that are located in France, except in case of fraud. It follows that the scope cannot involve companies established outside the country for dismissal procedures initiated after 22 September 2017. The 'same economic sector of activity' can be defined by the nature of products and services produces, the customers targeted, the networks and the modes of distribution.

A collective dismissal requires the employer to inform and consult social partners and to adopt an Employment Safeguard Plan, when the company presents a workforce of at least 50 employees and it plans the redundancy of 10 employees or more over a 30-day period. In all other cases, the employer needs only to inform and consult the works council on the restructuring plan. Redundant employees might then benefit from specific support measures, especially the professional security contract in companies with fewer than 1,000 employees.

According to article L. 1233-26, a company is subject to restructuring legislation for any new dismissal on economic grounds for the subsequent three months, if it presents a workforce of at least 50 employees and it dismissed 10 employees or more in the preceding three months without dismissing 10 employees or more over a 30-day period.

According to article L. 1233-27, a company is subject to restructuring legislation for any new dismissal on economic grounds for the three months after the end of the calendar year, if it carries out more than 18 dismissals from 1 January to 31 December without presenting a job protection plan.

In companies with a workforce of fewer than 10 employees, there is a shorter redundancy procedure (six weeks) and no requirement for an

Employment Safeguard Plan. Employee representatives have to be consulted and their opinion is sent to the labour inspectorate.

Comments

Case law usually considered the scope of assessment for economic grounds to cover companies within the group that refer to the same economic sector of activity, regardless of their location. Ordinance 2017-1387 of 22 September 2017, eventually confirmed by article 11 of Law 2018-217 of 29 March 2018 that amends article L. 1233-3 of the labour code, transformed the previous situation in the current state of facts.

The aim of the new and narrower definition is to make dismissals on economic grounds easier to foster flexibility benefitting the competitiveness of companies. According to the latest data provided by DARES (2019), the number of unemployed registered by the public employment service after a dismissal on economic grounds has decreased in 2017 (143,900 people) compared to 2016 (162,625 people).

Cost covered by

Not applicable










Involved actors other than national government

National government only

Thresholds

No, applicable in all circumstances

Sources

-  [Labour code, L.1233-3 \(Definition\)](#)
-  [Labour code, provisions related to collective dismissals for economic reasons](#)
-  [Loi n° 2016-1088 du 8 août 2016 relative au travail, à la modernisation du dialogue social et à la sécurisation des parcours professionnels](#)
-  [Ministry of Labour website, La définition du licenciement pour motif économique \(in French\)](#)
-  [DARES \(2019\), Demandeurs d'emploi inscrits à Pôle emploi au premier trimestre 2019, Dares indicateurs n°021, April 2019](#)
-  [EC flash report on Labour Law, September 2017](#)
-  [Thomson Reuters](#)
-  [Ordinance n°2017-1387 of 22 September 2017](#)
-  [Law 2018-217 of 29 March 2018](#)

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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

Press: media@eurofound.europa.eu



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