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Romania: Staff information and consultation on restructuring plans

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Romania

Phase:

Anticipation

Type: [Staff information and consultation on restructuring plans](#)

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Native name:	Codul muncii, Legea nr. 53/2003, republicată în Monitorul Oficial nr. 345 din 18 mai 2011
English name:	Labour Code, Law no. 53/2003, republished in the Official Gazette of Romania no. 345 of 18 May 2011

Article

68-74

Description

Employers have the obligation to inform the trade union or the employee representatives, in due time, of restructuring plans.

The rules of these consultations are stipulated in the law and, in addition, negotiated in company or sectoral collective bargaining agreements.

The purpose of the procedure is to alleviate the consequences of collective redundancies (i.e. dismissal of at least 10 employees in companies with 21-99 workers, at least 10% of staff in companies with 100-299 workers or at least 30 employees in larger firms of at least 300 employees) by social measures such as support for professional requalification and retraining of the dismissed employees. Consultation must be held before the decision to restructure is taken, so that the trade union is given the opportunity to make suggestions as to how redundancies can be avoided or reduced.

If the employer intends to proceed with collective redundancies, he/she must initiate consultations in due time to reach an agreement with the trade union or the representatives of the employees regarding, at least:

- methods and means to avoid collective redundancies or reduce the number of employees to be dismissed;
- measures to moderate the consequences of layoffs through social measures such as support for vocational requalification or readjustment of the dismissed employees.

Before consultations take place, in order to allow the trade union or the representatives of the employees to formulate suggestions in due time, the employer must provide, in writing, all the relevant information concerning:

- total number and categories of employees;
- reasons causing the contemplated redundancy;
- number and categories of employees to be affected by redundancy;
- criteria taken into account, under the law and/or collective agreements, to establish priority on the redundancy list (only subsequent to adequate performance evaluation);
- measures taken into account to limit the number of workers dismissed;
- measures taken into account to alleviate the consequences of redundancy, and the severance pay for the workers made redundant, under the law and/or the applicable collective agreement;
- the date when or the period of time during which the redundancy process is planned;
- the term within which the trade union or the representatives of the employees, as appropriate, may make proposals as to how mass dismissals can be avoided or the number of redundancies may be diminished.

The trade union or representatives of the employees may suggest measures to avoid redundancy or to diminish the number of workers to be made redundant, within 10 calendar days of the employer's notification.

The employer must examine the proposals received from the union within five calendar days, make a decision and notify the union of the decision in writing. This written notice must include the justification of the decision.

If, after the consultations with trade unions or employee representatives, the employer decides to issue the collective dismissals, he/she has the obligation to notify, in writing, the local labour inspectorate (*Inspectoratul teritorial de muncă*) and the local employment agency (*Agenția teritorială de ocupare a forței de muncă*), at least 30 days before the date of the dismissal decision.

The notification must also include the results of the consultations with the trade union or employee representatives. A copy of the notification must be sent to the trade unions or employee representatives.

If, within 45 calendar days after a collective dismissal, the employer resumes operations, he/she must notify the dismissed employees of this. Within this time span, the dismissed employees have a priority right to reemployment without having to undergo an exam, a competition process or a probation period. The employee must respond to this reemployment offer within five days after receiving the notice. Only if an employee refuses or fails to answer, the employer has the right to hire another person.

Comments

Among the information that the employer shall give the representatives of the employees before the beginning of the restructuring process, there are the reasons (justifications) for the planned dismissal. The purpose of the procedure is to alleviate the consequences of dismissal through social measures like support for professional requalification and retraining of the dismissed employees, so that they may acquire the necessary knowledge and skills to take on new jobs. Theoretically, at the moment when the consultation takes place, the decision on how to execute the restructuring is not yet made, so that the trade union has the chance to make suggestions regarding how to avoid dismissals. However, there are no legal sanctions for the employer deciding on collective dismissal measures without including the representatives of the employees. As a result, even if the consultation is purely formal, there are not many things that the employees can do to affect the outcome, as the decision to restructure has already been made.

Cost covered by

Not applicable

Involved actors other than national government

Public employment service

Trade union

Other

Involvement others

Representatives of employees; labour inspectorate

Thresholds

Company size by number of employees:

21

Number of affected employees:

10

Sources

▣ DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring

▣ [Labour Code, Law no. 53/2003](#)

▣ [Codul muncii, Legea nr. 53/2003](#)

▣ [EMCC - Social partner and government agency involvement in the restructuring process](#)

▣ [Lege nr. 127/17 iunie 2018 \(Law no. 127/17 June 2018\)](#)

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- › [Restructuring related legislation](#)
- › [Restructuring case studies](#)
- › [ERM publications](#)

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