

Luxembourg

Obligation to consider alternatives to collective dismissals

Phase	Labour Code
Native name	Code du travail
Type	Obligation to consider alternatives to collective dismissals
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Article

L. 513-1 to L. 513-3, L.166-2 and L.166-3

Description

The Labour Code provides two main policy tools to consider alternatives to collective dismissals, namely job retention plans and social plans.

Job retention plan (plan de maintien dans l'emploi)

When the Conjunction Committee (Comité de conjoncture), consisting of representatives from the government, the employers and trade unions, receives notification from a company with at least 15 employees of 5 dismissals within a three month period or eight within a six month period, they can invite social partners to negotiate on a job retention plan, which must at least cover the possibility of avoiding redundancies, mitigating their consequences, actions to assist redeployment, and financial compensations. The committee can coordinate, or allow a third party, to conduct a study to establish a job retention plan.

Discussions on a job retention plan must include measures such as flexibility of working hours, voluntary part-time work, time saving credits, working time reduction in conjunction with vocational training or retraining measures. Measures to be discussed include early retirement, part-time unemployment, temporary loaning of manpower and individual

guidance to help the employee secure alternative work.

With regards to implementation, the terms of the job retention plan are signed by social partners and forwarded to the Conjuncture Committee. The latter will then submit it for approval to the Minister of Labour, which will decide with the advice of the Conjuncture Committee.

The social plan (plan social)

Before initiating collective redundancies (dismissals of seven employees within 30 days, or 15 employees within 90 days), the employer must inform and consult its employee representatives in writing with regards to its plan to initiate a collective redundancy and preferably before the start of negotiations, or at the latest at the start of negotiations. Then the employer has to begin negotiations with employee representatives, defined as staff delegates, joint committees and trade unions if the company is bound to a collective agreement in order to establish a social plan for the individuals concerned. However, if a job retention plan has been agreed by the Ministry of Work, Employment and of the Social and Solidarity Economy in the last six months, the employer does not have to negotiate a social plan.

The negotiations must focus on the possibilities of avoiding or reducing the number of redundancies and reducing the consequences by means of internal redeployment within the company or reintegration into the job market and/or a more favourable financial compensation than established by law. Similar to the discussion on the job retention plan, the negotiation may also cover the application of the law on part-time unemployment, voluntary part-time work, reductions of working time, possible training, application of the law on temporary loans of employees, application of the law on early retirement, the duration of the plan, principles and procedures to regulate the implementation and follow-up of the plan.

Commentary

In the framework of the law of 23 July 2015 reforming employee representation in companies ([Loi du 23 juillet 2015 portant réforme du dialogue social à l'intérieur des entreprises](#)) (EurWork, [Luxembourg: Reform of employee representation in companies](#), 15 December 2015) it should be noted that joint committees will cease to exist after workplace elections which take place after 1 January 2016 (and at the latest after the workplace election scheduled of 2019). As from these elections, the tasks and duties assigned to joint committees will be transferred to the staff delegations in companies which had at least 150 staff during the 12 months preceding the first day of the posting of the announcement of elections.

Additional metadata

Cost covered by	None
Involved actors other than national government	Employer organisation Public employment service Trade union Works council Other National government
Involvement (others)	The Conjuncture Committee is part of the Ministry of the Economy.
Thresholds	Affected employees: 5 Company size: 15 Additional information: No, applicable in all circumstances

Sources

- [Labour Code](#)~~~ [Guichet.lu \(governmental website\) - Collective redundancies \(English\)](#)~~~ [Guichet.lu \(governmental website\) - Licenciement collectif \(French\)](#)~~~

Citation

Eurofound (2015), Luxembourg: Obligation to consider alternatives to collective dismissals, Restructuring legislation database, Dublin