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Restructuring for international employers

A Ius Laboris Guide

covering 20 countries

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Foreword

Organisations across all sectors are facing unprecedented challenges—from economic uncertainty and inflationary pressures to technological disruption and shifting workforce expectations. As a result, restructuring and redundancies have become an increasingly common, yet complex, necessity.

This guide brings together key legal and practical considerations from jurisdictions around the world, helping multinational employers navigate the risks and responsibilities involved in workforce change. It also highlights common themes—what to do, and what to avoid—when planning and implementing restructuring initiatives across borders.

Deborah Ishihara
Head of Research

Common Dos and Don'ts

Dos

- **Make the most of what you've got:** try to maintain the employees you have now to avoid unnecessary restructuring. For example, you could ask your employees to take on different tasks, within reason and as long as you are careful only to change what you are entitled to change unilaterally, as otherwise you may trigger claims.
- **Think long term and plan well:** try to consider the long-term effects of workforce reduction, beyond your business' immediate, short-term needs. If you need to restructure, make sure the plan is justifiable from a business perspective and conducted fairly.
- **Communicate well:** common sense might suggest that this means fully and frequently communicating with your employees and in fact, in most countries, transparency is the key. But be aware that there are rules in some places that restrict how you should communicate and at what stage, so take local advice and communicate appropriately.
- **There is no one-size-fits-all:** restructuring law is complex and easy to get wrong and the rules vary widely across the world (covering time limits, consultation rights and collective redundancy thresholds, to name but a few), so ensure to take legal advice in each jurisdiction. The cost of not doing so can be high.
- **Consider reputation:** factor in any possible reputational fall-out from a decision to restructure.
- **Align your timing:** if you are restructuring in several countries, make sure you are aligned with colleagues in terms of timing. This is particularly important for the timing of the announcement, but also for implementation.

Common Dos and Don'ts

Don'ts

- **Don't** downsize in small, repeated exercises if you can avoid it. Generally, a one-off exercise will maintain morale much better.
- **Don't** make any direct or indirect decisions regarding employees' terms of employment prior to finishing any consultation process that's required in the country concerned.
- **Be careful not** to select employees for redundancy on grounds that could end up triggering a discrimination claim (e.g. based on gender, race or religion).
- **Don't** overlook notification obligations to authorities. Many jurisdictions require formal notice to labour authorities or employment agencies—failure to comply can invalidate dismissals or lead to penalties.
- **And Don't forget** - how you act to make the process as fair and equitable as possible will be remembered for a long time and contribute to the level of trust people feel in the organisation.

At a glance

Thresholds for collective dismissal/redundancy obligations

The table below is a high-level summary of key collective dismissal/redundancy obligations, focusing on both internal and external notification and consultation requirements. You can click on the country name for the further details. This will enable you to see, where applicable, how a company/establishment is defined, how to calculate the number of dismissals, and if other obligations may apply (such as preparing and negotiating social, dismissal or action plans).

	Obligation	Number of employees	Number/percentage of dismissals	Timeframe for dismissals
Australia	Notify and consult with relevant internal body, and notify external authority	No specific threshold	**15+ dismissals** (potentially less in relation to internal obligations where a modern award or enterprise agreement applies)	No specific threshold
Belgium	Notify and consult with relevant internal body, and notify external authority	In a technical business unit ('TBU') or organisational division with **20-99 employees**	**10 dismissals** within that TBU or organisational division	Within a **60-day** period
		In a TBU or organisational division with **100-299 employees**	**10% of employees** within that TBU or organisational division	
		In a TBU or organisational division with **300+ employees**	**30 dismissals** within that TBU or organisational division	
China	Notify and consult with trade union or employees (as applicable), and notify external body	No specific threshold	**20 or more dismissals** or at least **10% or more** of the total workforce	No specific threshold
Denmark	Notify and consult with employees or employee representatives, and notify external body	In an organisation with **20-99 employees**	**10+ dismissals**	Within a **30-day** period
		In an organisation with **100-299 employees**	**10% or more** of all employees	
		In an organisation with **300+ employees**	**30+ dismissals**	

	Obligation	Number of employees	Number/percentage of dismissals	Timeframe for dismissals
Finland	Notify and consult with employees / employee representatives (lighter consultation procedure applies)	Employers regularly employing between **20-49 employees**	**20 or more dismissals** (including layoffs, reducing working hours or unilaterally changing an essential term of the employment contract)	Within a **90-day** period
	Notify and consult with employees / employee representatives (full consultation and cooperation obligations apply)	Employers regularly employing **50 or more employees**	No specific threshold	No specific threshold
	Notify external authorities	Employers regularly employing **50 or more employees** (and employers regularly employing between **20-49 employees** if the law is applied)	**10 or more** dismissals	No specific threshold
France	Collective notification and consultation obligations apply	No specific threshold	**2+ dismissals**	Within a **30-day** period
Germany	Notify Economic Committee (if any)	Required for any reduction of operations in, or closure of, establishments or parts of establishments.		
	Notify and consult with the works council regarding 'operational changes'	Establishments with **21-59 employees**	**5+ dismissals** but **at least 5%** of the employees in the establishment	No specific threshold
		Establishments with **60-499 employees**	**10% of the total workforce** or **25+ employees** but **at least 5%** of the employees in the establishment	
		Establishments with **500+ employees**	**30+ dismissals** but **at least 5%** of the employees in the establishment	
	Notify external authority, and consult with the works council regarding this notification	Same thresholds as above		Within **30 calendar days**
India	Notify external body	No specific thresholds apply. Employers are generally required to provide certain information to the federal or state government in cases of redundancy.		

	Obligation	Number of employees	Number/percentage of dismissals	Timeframe for dismissals
Ireland	Notify and consult with the relevant employee representative body, and notify external authority	An establishment normally employing **20-49 employees**	**5+ dismissals** in that establishment	Within a **30-day period**
		An establishment normally employing **50-99 employees**	**10+ dismissals** in that establishment	
		An establishment normally employing **100-299 employees**	**10% of employees** in that establishment	
		An establishment normally employing **300+ employees**	**30+ dismissals** in that establishment	
Italy	Information and consultation procedure with works councils and/or trade unions, and notification to external authorities	An organisation with **15+ employees** (including executives)	**5+ dismissals** (including executives) in the same business unit or in multiple business units within the same province	Within a **120-day** period
Japan	Notify external authority	No specific threshold	**30 or more employees**	Within a **one-month** period
Netherlands	Notify and consult with trade union(s) and notify external authority (UWV).	No specific threshold	**20 or more dismissals** within the same geographical area (i.e. the same UWV work area)	Within a **three-month** period
	Consult with works council (if any)	No specific thresholds apply, the works council must be asked for advice about any important change within the organisation.		
Norway	Notify and consult with trade unions or employee representatives (as applicable), and notify external authority	No specific threshold	**+10 dismissals** at one establishment	Within a **30-day** period
Singapore	Notify external authority	Employers with at least **10 employees**.	Notification is required where any employee is dismissed for redundancy.	No specific threshold
South Korea	Notify and consult with appropriate employee representative body	Collective consultation is required for any business-related dismissals. A minimum 50 days' notice and collective consultation is required for involuntary layoffs (typically longer is required in practice).		
	Notify external authority (separate reporting thresholds can apply to voluntary workforce reductions)	Employs **99 employees** or fewer	**10 or more** employees dismissed	Within a **one-month** period
		Employs **100 to 999 employees**	**10% or more** of the workforce dismissed	
		Employs **1,000 or more employees**	**100 or more** employees dismissed	
Sweden	Notify and consult with trade union(s)	No specific thresholds. These obligations apply for any business-related dismissals.		
	Notify external body	No specific threshold	At least **five employees** are affected by the planned redundancy.	No specific threshold

	Obligation	Number of employees	Number/percentage of dismissals	Timeframe for dismissals
Türkiye	Notify union (if any) and external authority	A workplace employing **20-100 employees**	**10+ dismissals** at that workplace	Within a **one-month** period
		A workplace employing **101-300 employees**	At least **10% of employees** at that workplace	
		A workplace employing **301+ employees**	**30+ dismissals** at that workplace	
UK	Notify and consult with trade union or employee representatives (as applicable), and notify external authority	No specific threshold	**20+ dismissals** at one establishment	Within a **90-day** period

Australia

Steven Amendola

steven.amendola@kingstonreid.com

1. Consultation requirements

Statutory duty to consult

Australian law requires that where an employer has decided to dismiss 15 or more employees for reasons of an 'economic, technological, structural or similar nature', it must notify and consult with any union(s) of which they could reasonably be expected to have known one or more of the affected employees were members.

Consultation under industrial instruments

Most, but by no means all, Australian employees are covered by a 'modern award'. These are instruments that apply at the level of industry or occupation and include minimum terms and conditions (including pay) for employees covered by those instruments. These can, but are not required to, include a term that requires consultation in advance of collective terminations. In practice, most awards do in fact include such a requirement and require consultation irrespective of the number of affected employees.

Modern awards cover a large proportion of the workforce in Australia but can be displaced by 'enterprise agreements' which are negotiated at the level of the enterprise or business. A smaller, but still significant, proportion of employees are covered by enterprise agreements made between employers and their employees (commonly but not invariably represented by a union). Enterprise agreements contain negotiated terms and conditions which must result in the employees covered by them being 'better off overall' than they would be if the modern award applied.

In contrast to modern awards, enterprise agreements are positively required to include a 'consultation term' that requires the employer to consult with the employees or their representatives about major workplace changes that will have a significant effect on the employees. If an enterprise agreement does not contain a consultation term, then a prescribed 'model consultation term' is deemed to be a term of the agreement. The model term applies to consultation in relation to a wide range of changes, not just termination of employment. It also applies irrespective of the number of employees who are likely to be affected by the proposed change.

2. Ways to remain below the redundancy thresholds

Redundancy in Australia is generally governed by the National Employment Standards. The Fair Work Act ('FW Act') provides that redundancy is payable when an employee's role is no longer required, except in certain circumstances such as the ordinary and customary turnover of labour or if the employer is a small business employer. Employers are also required to notify government agencies and relevant unions under the FW Act if 15 or more employees are to be made redundant.

One effective approach to remain below the redundancy threshold of 15 or more redundancy dismissals is to invite employees to nominate themselves for redundancy rather than to impose compulsory redundancies. This can reduce employee relations risks and may result in fewer forced redundancies while maintaining fairness and transparency in the

process.

A second alternative could be the use of staggered dismissals. This might involve implementing dismissals in stages rather than in one mass process which assists in keeping numbers below the 15-employee notification threshold at any one time. However, employers must be careful not to artificially structure redundancies to avoid obligations, as tribunals and regulators take a substance-over-form approach.

While these measures may help employers remain below the redundancy notification threshold, they do not remove the consultation obligations that apply under the FW Act or the relevant awards/enterprise agreements, and the fact that the redundancies must still be "genuine".

3. Information requirements

Information in relation to the statutory duty to consult

The employer must notify each union that represents any of the affected employees of three things:

- the proposed dismissals and the reasons for them;
- the number and categories of employees likely to be affected; and
- the time when, or the period over which, the employer intends to carry out the dismissals.

The notice must be given 'as soon as practicable after making the decision', and before dismissing any of the affected employees.

Having provided the requisite information to the relevant union, the employer must give that union an opportunity to consult with the employer on:

- measures to avert or minimise the proposed dismissals; and
- measures (such as finding alternative employment) to mitigate the adverse effects of the proposed dismissals.

As with the provision of information, the opportunity to consult must be made available 'as soon as practicable after making the decision', and before dismissing any of the affected employees.

This duty to consult arises only where at least one of the affected employees is a member of a trade union, but applies to all employers, irrespective of whether they are covered by an industrial instrument. The law does, however, impose certain consultation obligations on employers who are covered by an industrial instrument, irrespective of whether any or all of the affected employees are union members.

Information in relation to consultation under industrial instruments

The model consultation clause is quite elaborate, but as it applies to collective dismissals it basically requires that where an employer has made a definite decision to introduce a major change that is likely to result in the termination of employees, the employer must:

- notify the relevant employees of the decision;
- recognise any representative appointed by the employees for the purposes of consultation;
- as soon as practicable after making the decision, discuss with the relevant employees the introduction of the change, the effect the change is likely to have for employees, and measures the employer is taking to avert or mitigate the adverse effect of the change on the employees;
- provide to the relevant employees, in writing, all relevant information about the change and its expected impact on the employees (although the employer is not required to disclose 'confidential or commercially sensitive information' for this purpose); and
- give prompt and genuine consideration to matters raised about the major change by the relevant employees.

Consultation clauses in awards and agreements vary as to matters of detail, but in general terms, adhere fairly closely to the model consultation clause.

Provision of information to the public authorities

In addition to any information that may need to be provided in order to discharge the duty to consult under the law or an industrial instrument, Australian labour law also requires provision of certain information to the public authorities. This arises where an employer has made a decision to dismiss 15 or more employees 'for reasons of an economic, technological, structural or similar nature'.

In such circumstances the employer is required to provide written notification of the proposed dismissals to the Chief Executive Officer of Services Australia ('Centrelink') as soon as practicable after the decision to dismiss the employees is made and before the dismissals are effected. The written notification to Centrelink must contain the following information:

- the reasons for the dismissals;
- the number and categories of employees likely to be affected; and
- the time when, or the period over which, the employer intends to carry out the dismissals.

A template written notification to Centrelink can be found on its website.

4. Consultation process

Both the statutory duty to consult, and the obligation to notify Centrelink, are couched in terms of notification 'as soon as practicable' after taking the decision to terminate employment, but before implementing it. The model consultation clause also refers to 'practicability', and although it does not expressly state that consultation is to precede implementation of a

decision to terminate, it is clearly premised on the assumption that that will be the case.

Neither the statute nor the model clause give any indication of the duration of the consultative process, although the model clause does require that the employer give 'prompt and genuine' consideration to any matters raised by the employees, and common industrial practice would suggest that under both the model clause and the statute a 'reasonable' amount of time must be allowed to inform and consult with employees in order to establish genuine consultation.

For example, it is most unlikely that consultation would be found to be genuine if the employer were to notify in the morning and proceed with a decision to implement the change and effect the dismissals later that day.

By the same token, neither the legislation nor the model clause contemplates that the consultative process should be permitted to prolong the implementation process beyond what is 'reasonable'. As a rule of thumb, it can be assumed that a reasonable consultative process should not take more than one week.

5. What if you fail to comply?

Failure to comply with industrial instruments

If an employer fails to comply with the information or consultation obligations in an award or enterprise agreement, the employer will be in breach of the general statutory prohibitions on contravening awards or enterprise agreements, and as such may be sanctioned under a 'civil remedy provision'.

In principle, the Australian Federal courts may 'make any order the court considers appropriate' in respect of any such breach. This could include imposition of a monetary penalty of up to AUD 99,000 per breach for corporations and AUD 19,800 per breach for individuals. Theoretically, it could also include an injunction halting the terminations until the employer has discharged its obligations under the relevant consultation clause, or an award of compensation for loss that a person has suffered because of the contravention. In practice, however, few proceedings are brought for breach of consultation requirements, and where it does occur, remedies are limited to monetary penalties.

Failure to comply with statutory duty to consult

Failure to observe the statutory duty to consult with a relevant trade union can provide the basis for an application to the Fair Work Commission by an affected employee or a trade union for an order to put the employee(s) and/or unions back in the same position as if the employer had complied with its obligations. This cannot, however, include orders for the reinstatement of affected employees, withdrawal of a notice of termination, or payment of compensation or severance pay. Orders under this provision are rarely made in practice, although they are not entirely unknown.

Failure to notify Centrelink

Breach of the statutory duty to notify Centrelink of the impending termination of 15 or more employees is not a civil remedy provision in itself, but dismissal of an employee without such notification is a civil remedy provision, and can be dealt with as such (although the courts are not empowered to grant an injunction in respect of any such contravention).

6. Selection order and protections against dismissal

There is no statutory selection order that must be applied under Australian law.

In principle, practices such as 'last on first off' or 'first on last off' are lawful. However, they should be treated with some caution due to the possibility that they may be found to constitute 'indirect discrimination' on grounds such as age or gender – for example, where disproportionately fewer can satisfy a 'first on last off' requirement due to the effect of past discrimination. Furthermore, there are rules specific to the building and construction industry that may impact the legality of such provisions.

In this sense, employers must take care when it comes to the reason for making collective dismissals. Clearly a dismissal based on any one of the numerous reasons specified in anti-discrimination law would be unlawful (e.g. race, colour, sex, age, physical or mental disability, marital status, religion, pregnancy, or political opinion). However, employees may also bring a 'general protections' claim against an employer if the employer has taken 'adverse action' against the employee for a prohibited reason. Such reasons include that the employee:

- has a 'workplace right';
- has or has not exercised, or proposes to exercise, a workplace right;
- is or is not a member of an industrial association; and
- engages or declines to engage in industrial activity.

To succeed in an adverse action claim, it must be established that the dismissal or other adverse action was taken by the employer 'because of' one of the prohibited grounds. As a result, many general protections claims turn on the question of why the employer engaged in a particular course of conduct. The employer must also rebut a statutory presumption that the dismissal or other form of adverse action was taken for a prohibited reason.

7. Are additional payments required?

Australian labour law provides employees with a minimum entitlement to severance pay in all cases of redundancy. There are no additional payments to make to employees in cases of collective redundancy. The statutory entitlements may be enhanced (but not reduced) by the terms of an enterprise agreement or a contract of employment.

Severance pay is made to eligible employees in addition to notice of termination and pay-out of accrued entitlements such as unused annual leave or long service leave.

8. Reputational issues

Australia has a strong tradition of union involvement in the workforce, particularly in sectors such as transport, construction, energy, and manufacturing. This influence extends beyond the workplace, with the union movement in Australia maintaining strong connections to the media, and State and Federal politicians, and high-profile restructures have drawn significant media attention. It is also not uncommon for employers to be publicly criticised by politicians if they are seen to be abandoning communities, offshoring work, making employees redundant for profit-driven reasons despite continued strong financial performance or generally treating employees "unfairly". Large employers vying for government contracts should be mindful of these risks when undertaking restructures.

Regulatory intervention is also a growing consideration in Australia, particularly in light of the potential impact of a restructuring exercise on employee wellbeing. For example, we have recently seen a state work health and safety regulator (SafeWork NSW) issue a prohibition notice on an employer, alleging risk of psychological harm during a restructure which resulted in a pause to the redundancy process. This reinforces the importance of employers undertaking genuine consultation during the redundancy process to ensure the health and wellbeing of employees and to mitigate reputational risks.

9. Dos and don'ts

Two High Court decisions have recently been handed down in Australia in relation to restructures and highlight some key dos and don'ts. They can be summarised as follows:

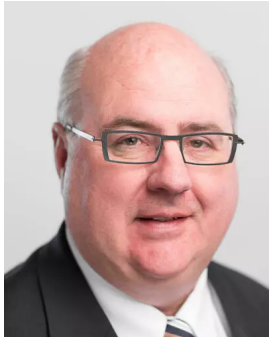
Do consider whether, in all the circumstances, it may be reasonable to retain employees by reducing the number of contractors or by taking other steps including rearranging the workforce.

Do consider, in cases involving an assessment of whether a contractor should be displaced to allow for redeployment, a broad range of factors. The contractor's contractual terms, degree of permanency and whether their work is specialised in nature, will all be relevant.

Do ensure that employees are not adversely affected because of any reason that is connected to current or future workplace rights (i.e. preventing employees from engaging in future potential protected industrial action). Employers bear the onus and should make sure they can give evidence that their reasons for restructuring are only commercial. For this reason, accurate and frequent record keeping is also key.

Don't ignore redeployment opportunities or fail to comply with the consultation and notification obligations outlined above.

Belgium



Bart Vanschoebeke

bart.vanschoebeke@claeysengels.be

Hanne Cattoir

hanne.cattoir@claeysengels.be

1. Consultation requirements

An employer must inform and consult with employee representatives if considering multiple dismissals for economic or technical reasons.

The information and consultation obligations are relatively limited as long as the threshold for a collective dismissal is not reached.
However, if the restructuring involves a collective dismissal, a more formal procedure applies. The number of dismissals required to trigger a collective dismissal is as follows:

- in a technical business unit or organisational division with 20 to 99 employees, ten dismissals in a 60-day period;
- in a technical business unit or organisational division with 100 to 299 employees, 10% of employees within a 60-day period;
- in a technical business unit or organisational division with 300 or more employees, 30 dismissals within a 60-day period.

These thresholds must be applied both at the level of the 'technical business unit' (as established during the most recent social elections for the works council and/or the committee for prevention and protection at work) and at the level of each organisational division. This means, for example, that ten dismissals will trigger a collective dismissal in a technical business unit with more than 300 employees if the redundant employees all work in a single division with fewer than 100 employees.

In certain industry-level collective bargaining agreements, the thresholds are lower and additional consultation requirements exist.

2. Ways to remain below the redundancy thresholds

Staggered dismissals

The strict information and consultation procedure that applies in cases of collective dismissal does not apply if the dismissals are spread over time (in such a way that the thresholds are not exceeded). However, the 60-day period is a "rolling period": if dismissals were to occur today, both the past 60 days and the next 60 days must be looked at to ensure that the thresholds are not exceeded. If the total number of dismissals within those 60-day windows meets the threshold, the strict information and consultation procedure will be triggered. Furthermore, calculating the number of dismissals for the purposes of the above threshold is based on the number of "heads" (and not full-time equivalents). This means, for example, that the dismissal of two part-time employees would count as two dismissals, not one.

If an organisation decides to opt for a phased approach, it should avoid any suggestion that it has done so with the sole purpose of avoiding the legally required information and consultation procedure. Otherwise, this could indicate that the approach is in fact a 'simulation' and not genuine. It is therefore important that any phased approach can be justified by the employer with an objective business reason.

If a selection of affected employees

occurs as part of a phased approach, this selection must also be done objectively (e.g. by applying the principle of "last in, first out") in order to avoid any other potential claims, such as discrimination claims.

Voluntary leave

While voluntary leave does not in principle count as a dismissal for the assessment of the collective dismissal threshold, European case law has explained that consultation must be initiated as soon as the employer makes a strategic or commercial decision which leads it to contemplate or plan collective redundancies. This is the case even if the precise details are not yet fully determined. For example, if an employer has the intention of proceeding with a head count reduction, preferably through a voluntary leave scheme, but with provision for making dismissals if necessary (i.e. if there are no candidates for the voluntary leave scheme), an intention must be announced and consultation must be initiated.

3. Information requirements

The following information must be provided in writing to employee representatives in the case of a collective dismissal process:

- The reasons for the proposed dismissals.
- The proposed method of selecting employees who may be dismissed.
- The number of employees who may be dismissed and the proportion of those who are blue-collar and white-collar workers.
- The total number of employees and the proportion of those who are blue-collar and white-collar workers.
- The proposed method of calculating the amount of any extra-legal severance payments (i.e. 'a social plan'). At this stage of the process, most organisations only confirm that they will observe their legal obligations and that they will offer fair severance conditions. In practice, the social plan negotiations most often only start after the end of the consultation phase.
- The period over which the dismissals are to take effect.

Consultations must begin 'in good time', before management has taken a formal decision ('intention') that triggers the collective dismissal. The employer's provision of the above information marks the start of the consultation period.

The provision of information and the consultation takes place with the works council, or the trade union delegation in the absence of a work council. If no trade union delegation exists, it takes place with the committee for prevention and protection at work and if no social bodies exist at all, with all employees. The employee representatives may ask to be assisted by external union secretaries. In principle, the employer may refuse, but most organisations allow this.

Organisations are also required to notify different external authorities in Belgium about the intention to proceed with collective dismissals. This should take place on the same day as the first notification / announcement to the relevant internal body (e.g. the works council). When the information and consultation process is finished and the organisation makes a decision, different external authorities must again be notified of this decision.

4. Consultation process

Consultation must allow the employee representatives to ask questions, challenge the management's proposal and suggest alternatives, aimed at:

- avoiding the dismissals;
- reducing the number of employees to be dismissed;
- mitigating the consequences of the dismissals.

Management must answer all relevant questions and carefully examine any proposals made by the employee representatives.

The law does not define a minimum or maximum duration for the consultation. In 2024, the average consultation procedure for collective dismissal procedures lasted 78 days (with a median of 64 days). In about 68% of cases, the consultation was concluded in less than 90 days. About 80% of the consultation procedures took less than 120 days.

Ideally, the parties should mutually agree to conclude the consultation procedure. If that is not possible, the employer may unilaterally conclude the consultation process once all relevant questions have been answered.

5. What if you fail to comply?

If the employer fails to comply with the information and consultation requirements the consequences are the same for breach of either one or both requirements.

If trade unions or individual employees believe that they have not been properly consulted, either can start summary proceedings before the President of the labour court and ask for the restructuring to be suspended until the consultation process has been finalised.
Dismissed employees may also claim damages, which rarely exceed EUR 10,000 gross per employee.

If the employer decides to prematurely end the consultation phase in case of a collective dismissal procedure, the trade unions may officially object to this within 30 days of that decision and employees who have been made redundant may ask to be reinstated on the basis that the employer did not consult properly.

Finally, criminal penalties apply both for the organisation and its directors who have not complied with the information and consultation obligations. However, criminal prosecution is rare.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Belgian law. No specific order needs be taken into account in carrying out dismissals, unless this is determined at the level of the Joint Committee (a permanent body composed of employer representatives and trade unions) or at the level of the organisation.

The selection of affected employees must in any case be carried out objectively (e.g. all employees of a certain division, selection by applying the principle of "last in, first out", selection based on skills/performance score, etc.) in order to minimise the risk of any potential claims, such as discrimination claims, from arising.

Particular care must be taken with regard to the dismissal reason when dismissing protected employees. Dismissing for any of the following reasons would be unlawful:

- gender, pregnancy, family responsibilities, and the use of breastfeeding breaks during work;
- parental, adoption and paternity leave;
- educational leave;
- time credit and career breaks;
- the carrying out of activities as a prevention adviser;
- that the employee has filed a complaint or given a statement in relation to violence, harassment or sexual intimidation;
- a political mandate;
- the filing of a claim for discrimination;
- making a report covered by the whistleblower protection laws;
- that the employee has made comments on the work rules during the introduction or modification procedure for those rules.

In some specific situations, particular rules also need to be taken into account:

- Collective dismissal: In the event of a collective dismissal under Belgian law, the dismissal criteria as determined by the works council must be taken into account.
- For employee representatives in works council and/or in the committee for prevention and protection at work and/or members of trade union delegations very specific dismissal procedures must be complied with (if not, very high indemnities of up to eight years' remuneration may be payable).

7. Are additional payments required?

Other payments that might apply in cases of collective redundancy include:

- Collective dismissal indemnity: if applicable, this corresponds for most employees to about EUR 500 per month, for a maximum period of four months.
- Closure indemnity: for closures as of 1 February 2025 this corresponds to EUR 202.93 per year of service with a maximum of 20 years, plus an additional EUR 202.93 per year of service after the age of 45 with a maximum of 19 years.
- Early-retirement benefits known as Unemployment with Company Allowance ('UCA'), provided that the employees meet the applicable age and other conditions. In a restructuring, the Minister of Work can be asked upon certain conditions to reduce the age limit for UCA. (Note that this scheme will soon be abolished according to the new Government Agreement).
- Depending on the number of dismissed employees, the organisation may be obliged to establish an employment cell. All redundant employees must then be offered the opportunity to participate in the employment cell. They will be offered outplacement guidance at the employer's expense, and they must receive a 'redeployment indemnity'. The 'redeployment indemnity' can be deducted from the severance indemnity in lieu of notice, so it is only an additional cost for the employer if the redeployment indemnity is higher than the severance indemnity in lieu of notice.

In cases of collective dismissal, it is also common practice in Belgium to negotiate a social plan with the trade unions, containing extra-legal benefits granted on top of the normal mandatory severance payments. A social plan typically provides for one or more of the following benefits:

- an additional severance payment of one or more months;
- a seniority premium (e.g. EUR 1,000 to EUR 2,500 gross per year of service);
- a doubling of the closure indemnity;
- improved outplacement services;
- a voluntary departure programme;
- job security for employees who stay with the company.

Before starting negotiations, it can be useful to make a benchmark of what has recently been granted by similar organisations in the same branch of the industry and the same region.

8. Reputational issues

Reputational damage is rather a moderate risk, at least if there is a real business case for the workforce reduction. Press coverage at the time of announcement of the intention to proceed with a workforce reduction is not unusual. However, in most cases this is limited to the start of the project and possibly also in the event negotiations on a potential social plan are unsuccessful. Unions might then increase pressure on management by complaining in the press about the lack of an adequate social plan.

9. Dos and don'ts

Do consider making a benchmark of what has recently been granted in social plans by similar employers in the same industry branch and in the same region before starting negotiations. In the event of a collective dismissal, it is common practice in Belgium to negotiate a social plan with the trade unions which contains extra-legal benefits granted on top of the normal mandatory severance payments. Negotiations can be expected to be tough if the economy declines and the chances of redeployment are low.

Do make sure you align your timing with affiliates in other countries if the reduction relates to several countries. This holds both for the timing of the announcement and for the timing of the implementation.

Do prepare ahead of consultation with employee representatives, because during the consultation management must answer all relevant questions and carefully examine any proposals made by the representatives. At a minimum, gather the following information before announcing a restructuring project: the reasons for the proposed workforce reduction, the proposed method of selecting employees who may be dismissed, the number of employees who may be dismissed, and the timeline for dismissals. If protected workers are impacted, specific procedures will have to be observed, so this should be mapped and carefully prepared.

Don't state that the redundancy project is decided until the end of the consultation phase.

China

Bo Zhou

bo.zhou@fangdalaw.com

1. Consultation requirements

Chinese law defines collective dismissal as the dismissal of at least 20 employees, or 10% or more of the total workforce, under the following circumstances:

- where the employer is being restructured pursuant to China's bankruptcy legislation;
- where the employer is experiencing serious difficulties in terms of production or business operations;
- where the employer changes production, introduces a major technological innovation or revises its business methods and, after amending its employment contracts, still needs to reduce the workforce;
- where there is a major change in economic circumstances beyond the employer's control (e.g. an economic downturn) based on which the employment contracts were concluded.

2. Ways to remain below the redundancy thresholds

There are no specific measures in this regard, although it is common practice for employers to enter into mutual termination agreements with employees for the purposes of avoiding the collective dismissal threshold.

3. Information requirements

To implement a collective dismissal, an employer is legally required to explain the circumstances to the trade union or all of its employees 30 days in advance and to consider all views expressed. However, the law does not specify what information must be provided. In practice, it is generally considered that information about the reason for the dismissal (e.g. operational difficulties) should be provided.

4. Consultation process

The following consultation process must be followed by the employer:

- The employer must give an explanation of the circumstances to the trade union or all of the employees 30 days in advance.
- The employer must make an employee dismissal plan, including a list of names of employees to be dismissed, a schedule of employee dismissal and compensation package.
- The employer must seek an opinion from the trade union or all of the employees and, based on its feedback, improve and finalise the employee dismissal plan.
- The employer must file the employee dismissal plan with the local labour authority and consider the authority's opinion. Although the authority's approval is not required by law, successful completion of this reporting procedure is subject to the authority being satisfied with the plan.
- The employer must publicise the

employee dismissal plan to all employees and implement the plan.

The timeframe within which to complete the process varies on a case-by-case basis but in practice will depend mainly on how long it takes to obtain the local labour authority's approval.

5. What if you fail to comply?

The law is not clear on what information must be provided and therefore, it is difficult to be certain what the consequences would be for failure to provide any particular information. However, the basic consequence of breach of procedural requirements is that the dismissals would be unlawful and therefore invalid.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Chinese law. However, the following employees are protected from termination in a collective dismissal scenario:

- those exposed to occupational disease who have not had pre-departure health check-ups, or are suspected of having contracted occupational diseases and are being diagnosed or are under medical observation;
- those who have lost or partially lost their capacity to work as the result of an occupational disease contracted or a work-related injury sustained while working for the employer;
- those who have contracted an illness or sustained a non-work-related injury, provided the applicable statutory period of medical care has not expired;
- female employees who are pregnant, in confinement or nursing; and
- those who have worked for the employer continuously for not less than 15 years and are less than five years from the legal retirement age.

For collective dismissals, the employer must also give preference to retaining the following employees:

- those with comparatively longer fixed-term contracts;
- those with indefinite term contracts; and
- those who are the sole wage earners and are supporting an elderly person or a minor.

If the employer wishes to rehire any new employee within six months after the collective dismissal, it must notify these former dismissed employees and offer them employment on a preferential basis under the same conditions.

7. Are additional payments required?

Except for statutory severance pay for termination of employment, there is no additional payment applicable to employees who are terminated as a result of collective redundancy.

8. Reputational issues

There are no particular jurisdiction-specific reputational issues with regard to restructurings.

9. Dos and don'ts

Do conduct a thorough due diligence check on the background of all employees to be affected so that you are aware of whether any of the special protections against collective dismissal may apply.

Do obtain a managerial decision (i.e. Board of Directors resolution) related to the reason for termination.

Do carefully prepare a redundancy plan.

Do adopt good communication strategies.

Don't use different methodologies when deciding severance packages for different employees.

Denmark

Christian K. Clasen

ckc@norrbomvinding.com

Sara Baldus

sba@norrbomvinding.com

1. Consultation requirements

Under Danish law, an employer proposing to carry out collective dismissals must consult with the employees or their representatives if a certain number or proportion of employees may be affected, depending on the size of the organisation.

The provisions apply if the employer proposes to dismiss the following number or percentage of employees within a 30-day period:

- ten or more employees, in an organisation with more than 20 but fewer than 100 employees;
- 10% or more of all employees, in an organisation with at least 100 but fewer than 300 employees; or
- 30 or more employees, in an organisation with 300 or more employees.

The provisions do not apply to dismissals for reasons related to the employees' conduct or performance, or to dismissals that are a result of the employer being wound up by a court order. Some of the provisions do not apply to dismissals that are a result of the employer's bankruptcy, unless by court order.

If the employees are covered by a collective agreement that contains provisions on collective dismissals, these provisions may either replace or supplement the statutory provisions, depending on what they say.

2. Ways to remain below the redundancy thresholds

To remain below the redundancy thresholds under Danish law, employers may consider staggered dismissals to spread out redundancies over a longer period, so that the number of redundancies within any 30-day period does not exceed the threshold for collective redundancies.

Employers can also (and will often) consider voluntary redundancy schemes in the form of severance agreements. However, it is worth noting that when assessing whether the redundancy thresholds are met under Danish law, all dismissals that are initiated by the employer – and are therefore not attributable to the employees – must be included. This means that the employees who enter into severance agreements or end their employment because the employer offers favourable terms, will still count towards the threshold, provided there are at least five "regular" redundancies as well. The same applies where an employee resigns to take voluntary or early retirement as part of a severance agreement initiated by the employer in connection with the redundancies.

3. Information requirements

The employees or their representatives must be given all relevant information about proposed dismissals in writing, including at least the following information:

- the reasons for the proposed dismissals;
- the number of employees who will be affected by the proposed

dismissals, the categories to which they belong and the period during which the dismissals are planned to take place;
- the number of employees normally employed in the organisation and the categories to which they belong;
- the proposed selection criteria; and
- whether any employees are entitled to severance payments under an individual or a collective agreement and, if so, how these payments are to be calculated.

Further, the employer must notify the relevant regional employment council ('Det Regionale Beskæftigelsesråd') of its intention to commence the consultation process and provide the council with a copy of the notification and other documents that have been sent to the employees (i.e. the 'first notification').

4. Consultation process

In order to ensure a genuine consultation process, the employer must consult with the employees or their representatives as soon as possible and, in any event, before a decision is made with regard to the dismissals.

Under Danish law, the purpose of consulting with the employees or their representatives should be to avoid or reduce the proposed dismissals or to mitigate the effects of dismissals that cannot be avoided. This can be done by redeploying or retraining the affected employees, outplacements or severance payments. However, there is no requirement to reach an agreement on a social plan as a result of the consultation process.

There is no specific requirement stipulating the number of meetings between the employer and the employee representatives.

According to law, if, after having consulted with the employee representatives, the employer wishes to proceed with the proposed dismissals, the relevant regional employment council must be notified of the reason for the dismissals. The notification must include the total number of employees employed by the employer and the period during which the proposed dismissals will be carried out (i.e. the 'second notification').

There is no mandatory length for consultations as such, but if at least 50% of the workforce, where the workforce consists of 100 employees or more, will be affected by the dismissals, the employer must leave 21 days after consultation has commenced before notifying the regional employment council, unless otherwise provided by a collective agreement. If this threshold is not met, there are no statutory requirements about the length of the consultation period. Nevertheless, it must be carried out in good faith.

As soon as possible and within ten days of the second notification being sent to the regional employment council, the employer must inform the council of the names of the affected employees. At the same time, the affected employees must be notified. Further, the employer must notify the council of the outcome of the consultation process as soon as possible.

The proposed dismissals cannot take effect (i.e. the notice period cannot expire) until at least 30 days after this notification to the regional employment council. For an organisation with 100 or more employees, where at least 50% of the workforce will be affected, the dismissals must not take effect until at least eight weeks after the notification, unless otherwise provided by collective agreement.

5. What if you fail to comply?

An employer that fails to provide the employees or the relevant regional employment council with the required information about the dismissals or fails to undertake the consultation process may be subject to a fine.

An employer that fails to undertake the consultation process in good faith may be required to pay compensation to the employees. However, the employees and their representatives do not have any legal right to have the dismissals cancelled or to argue that they are void.

The compensation awarded is equivalent to 30 days' pay. In the case of an organisation with 100 employees or more where at least 50% of the workforce is affected by the dismissals, the amount payable in compensation is eight weeks' pay. Any payment in lieu of notice will be deducted from the compensation amount.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Danish law and the employer has relatively wide discretion to decide whether or not a dismissal is required and, if so, who is to be dismissed. However, the criteria applied in the selection procedure must not be unfair or discriminatory. Employees who are salaried employees (i.e. white-collar workers performing certain types of work such as trade, office work, technical or clinical assistance and management) are protected against unfair dismissal if they have been employed by the same employer for a continuous period of at least 12 months. Collective agreements normally include similar provisions.

In addition, care must be taken to comply with the number of statutory provisions that prohibit dismissal based in full or in part on various criteria or factors. The main examples are:

- pregnancy, including pregnancy-related illness and childbirth-related leave, including adoption;
- gender, race, colour, religion or belief, political opinion, sexual orientation, gender identity, gender expression, gender characteristics, age, disability, national, social or ethnic origin and demanding equal pay, including equal pay conditions;
- full-time or part-time work

status;
- requesting or taking leave for national military service;
- membership in any organisation or a particular organisation;
- whistleblowing in good faith;
- exercising the right to compassionate leave, for example, to care for a close relative during illness or injury or for a close relative who is terminally ill and wishes to die at home.

Under most collective agreements, trade union representatives may be dismissed for compelling reasons only (and this protection typically extends to collective dismissals). Therefore, union representatives enjoy greater protection than other categories of workers.

Health and safety representatives, members of works councils and employee representatives on the board of directors also enjoy protection against dismissal (including collective dismissals). However, the employees only benefit from this protection to the same extent as trade union representatives working in similar areas, so the actual level of protection varies.

7. Are additional payments required?

Assuming the collective redundancy procedure has been complied with, there are no additional payments that must be made to the employees (as compared to an individual dismissal).

8. Reputational issues

Workforce reduction normally has some level of negative impact on an employer's reputation. For this reason, it is important to ensure that the restructuring is conducted in accordance with the law and any applicable collective agreement, and to communicate clearly and in a timely way with employees and/or their representatives. Otherwise, the negative reputational impact might be increased.

9. Dos and don'ts

Do consider the long-term effects of any restructuring and take into account long-term business needs. As part of this, consider alternatives to restructuring, such as working time or salary reductions.

Do ensure compliance with the law and any applicable collective agreements before starting the restructuring process. As part of this, establish whether there is any requirement for information or consultation regarding an expected restructuring process arising from the law, applicable collective agreements or any others forms of works council agreements.

Do consider the process of selecting employees for redundancy thoroughly to reduce the risk that affected employees file claims (e.g. on grounds of discrimination).

Do communicate clearly and in a timely way with employees and/or their representatives.

Don't restructure in small, consecutive steps. If you know that you are going to effect multiple dismissals, then consider one major process so as to avoid confusion, uncertainty and demotivation amongst employees.

Don't forget the collective redundancy thresholds, as it is essential to know whether the Danish Collective Redundancies Act applies to a restructuring process.

Finland

Jonas Ström

jonas.strom@dittmar.fi

1. Consultation requirements

The provisions on collective redundancies apply equally to the dismissal of one or several employees, triggering consultation obligations that must be observed by the employer.

The applicable law and procedural consultation requirements when planning the termination of one or several employment relationships on collective grounds depend on the size of the organisation. Employers regularly employing at least 50 employees in Finland are subject to full consultation and cooperation obligations under the Finnish Co-operation Act. Employers who regularly employ 20-49 employees must still comply with certain obligations arising from the Act, but with a significantly lighter procedure, including the requirement to hold change negotiations only if the employer is considering measures to reduce at least 20 employees over a 90-day period. Temporary layoffs lasting a maximum of 90 days do not require change negotiations.

It is also important to note that a collective bargaining agreement that is binding on the employer may provide for differing rules on the procedure and timing of the change negotiations.

2. Ways to remain below the redundancy thresholds

Alternative measures to manage workforce reductions to remain below redundancy thresholds are highly case-specific and depend on numerous factors, including the organisation's specific circumstances, the nature of the business operations, applicable collective bargaining agreements, and the individual employment relationships involved.

Given the complexity of redundancy legislation and the potential legal implications of different strategies, employers should seek specific legal advice tailored to their particular circumstances rather than relying on general guidance. What may be appropriate in one situation could be problematic in another, making individualised assessment essential.

3. Information requirements

When dismissing employees on collective grounds, an employer that is subject to full consultation and cooperation obligations under cooperation law (i.e. it is regularly employing at least 50 employees) may not make final decisions on redundancies, or major business decisions relating to the redundancies, before having fulfilled all of its cooperation and consultation obligations.

The consultations take place primarily between the employer and the representatives of the employees under threat of dismissal. Alternatively, if the employer is making individual employees redundant, the redundancy may be discussed with the employees themselves, unless they ask for representatives to participate. The employee representatives are either general representatives or cooperation representatives. Cooperation representatives are appointed under law specifically for the purpose of cooperation and consultation in redundancy processes. If the employees have no representatives, the employer

may consult directly with the affected employees.

The employer must give the employee representatives five days' prior written notice of the consultations and provide them with the information specified by cooperation law before the consultations. During this time, the employee representatives have the opportunity to prepare for the consultations. The employer's notice must include all information necessary to consult about the proposed redundancies and to obtain any supplementary information, and should include the following:

- the grounds for the planned redundancies;
- an estimate of the number of planned redundancies in each group of employees;
- an estimate of the period when the redundancies will be carried out;
- information about the how employees will be selected for redundancy.

The information must be given with the notice of the consultations. If at least ten redundancies are contemplated, the employer must give the information in writing. It is, however, recommended that the information is also provided in writing for redundancies involving fewer than ten employees.

4. Consultation process

There is a strict legal process for the required consultation.

The employer must give the employee representatives written notice five days before consultations begin, including information required by law, as follows:

- the time and place of the consultations; and
- the main issues to be addressed.

In addition to the negotiation proposal, the employer must provide the employee representatives with information on:

- the grounds for the intended measures;
- an initial estimate of the number of terminations;
- the principles that will be used to determine which employees will be terminated; and
- a time estimate for implementation of the terminations.

During the consultations, the parties must discuss the grounds for, effects of, and any alternatives to the planned redundancies, in order to reduce the negative impact. Further, the possibility of retraining and redeploying employees under the threat of redundancy must be discussed.

The minimum negotiation period is seven days or three weeks, depending on the matters to be negotiated and the number of employees in the organisation. Furthermore, if the negotiations concern a plan to terminate at least ten employees on production-related and financial reasons, the employment contract of a terminated employee may not end before 30 days have elapsed from the date a proposal for negotiations was submitted to the employment authority.

If requested to do so by any of the parties to the consultations, the employer must keep minutes of the consultations. Although not expressly required by law, in the absence of such a request, it is in the employer's interests to ensure that the information discussed in the consultations is recorded and keeping minutes is therefore recommended. The minutes should be signed by the parties to the consultations, that is, the employer and the employees participating in the consultation or the employee representatives.

The employer may make a decision about the redundancies after the consultations have lasted for the minimum periods, and once all the matters set out in law have been discussed. The employer must inform the employees or the representatives of the decisions it contemplates based on the cooperation consultations within a reasonable time after the consultations have ended. This information should include, at a minimum, the number of employees to be made redundant in each staff group and information about when the redundancies will take place. Further, the employer must inform the employees of the right to an employment programme.

An employer with fewer than 50 employees in Finland that plans to make employees redundant must consult and inform them about the grounds for redundancy and possible alternatives to redundancy (if the above-mentioned situations that apply to employers with 20-49 employees do not apply and the employer has no obligation to arrange change negotiations). Further, the employees must be informed of the right to paid leave from employment during the notice period.

Actions to promote re-employment and informing authorities

When planning consultations, the employer must inform the local labour authorities about them and seek information from public employment services about employment opportunities for affected employees. Notice of the consultations must also be given to the local labour authorities when the consultations begin.

Although a social plan is not required, the employer must prepare a plan of action at the beginning of consultations involving at least ten proposed redundancies. This plan must contain:

- a timetable for the consultations;
- information on the consultation procedure; and
- ways of promoting employment and training opportunities for the affected employees.

The plan of action must be prepared in cooperation with the labour authorities and must also be discussed with the employee representatives.

If the proposed redundancies affect fewer than ten employees, the employer must provide proposals for promoting employment and

training opportunities for the affected employees.

If at least ten employees are made redundant, the employer must inform the labour authorities about the redundancies once the consultations are complete. This notification should include the following information:

- the number of employees made redundant;
- their profession or duties;
- the expiry date of the employment relationship.

Employees who are made redundant are entitled to between five and 20 days of paid leave during the notice period. The length of the leave depends on the employee's notice period. If the employee made redundant is aged 55 or older, they may be entitled to a maximum of 25 days of paid leave during the notice period. The purpose of the leave is to provide the employee with an opportunity to seek employment, for example, by writing job applications, participating in outplacement services and attending job interviews. Before taking this employment leave, the employee must inform the employer regarding the leave and the grounds for it as early as possible. The employee also must, upon request, provide proof of the grounds for the leave.

Employers that regularly employ at least 30 employees must offer education or training promoting employment to employees made redundant on financial and production-related grounds. The education or training will be at the employer's expense. In addition, they are obliged to offer occupational health care services to redundant employees for six months after the termination of employment. These obligations apply only to employees whose employment has lasted at least five years.

After the expiry of the employment contracts, if new positions arise at the organisation, the employer must enquire with the local labour authority whether any of the former employees have reported as job-seekers. If so, these employees must be given priority for any such new positions.

This re-employment obligation lasts for four months after the termination of employment. However, if the employment relationship has lasted more than 12 years at the time of the termination of employment, the re-employment obligation period is six months. If the employer fails to comply with this re-employment obligation, it will be liable for any resulting loss caused to the employee.

5. What if you fail to comply?

If an employer that is subject to the law on cooperation obligations (i.e. it regularly employs at least 50 employees) intentionally or negligently fails to observe the consultation provisions in connection with redundancies, it may be held liable to indemnify each redundant employee to a maximum of EUR 40,160.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Finnish law as such, but the law lays down a minimal number of rules regarding the order in which an employer may dismiss its employees on financial and production-related grounds. These are:

- The redundancies must target those whose work actually diminishes substantially and permanently.
- An employer's right to dismiss shop stewards, industrial safety delegates and certain other employee representatives is strictly limited (they are usually the last to be dismissed). Employee representatives may only be terminated on collective grounds if the representative's usual position has come to a complete end and the employer is not able to offer any other suitable work.
- Decisions regarding the selection of an employee to be dismissed cannot be discriminatory or otherwise inappropriate.

It is also not permissible to dismiss employees who are on a protected form of leave (e.g. maternity leave) on collective grounds, unless the entire business of the employer has closed.

In addition, several collective agreements contain provisions to the effect that length of service should be taken into account in selecting employees. Similarly, employees whose vocational skills and other abilities are important to the business and those who have lost part of their working capacity must be the last to be dismissed by the employer.

Infringement of the dismissal order set out in a collective agreement does not result in a termination being void. If an employer bound by a collective agreement violates a provision on dismissal order, a fine of up to EUR 37,400 may be imposed and will be payable to the union that is party to the collective agreement. However, this does not happen very often.

Finally, employers must take note of the non-exhaustive list of unlawful dismissal grounds. This list includes the employee's participation in industrial action, political, religious or other opinions or participation in social activity or activities of an association. The fact that an employee resorts to taking legal advice or action also does not justify termination of employment. Further, employees are protected against discrimination on these grounds under constitutional law.

7. Are additional payments required?

The employer is not liable to pay any additional compensation for legally valid terminations. However, it should be noted that the pay period ends when the employment terminates, and therefore the employer is obliged to pay all the employee's outstanding receivables arising from the employment, such as compensation for accrued but unused holidays and overtime.

8. Reputational issues

Due to the current economic situation, the risk of major reputational damage is quite low. Quite a few companies in Finland are restructuring their businesses for economic reasons. However, it is important to ensure that a proper consultation process is completed prior to any restructuring in order to avoid claims as well as reputational damage.

9. Dos and don'ts

Do bear in mind that dismissing employees requires proper grounds under the law, meaning that the work offering must have diminished permanently and significantly. Thus, the employer must have a plan of action to help promote the hiring of dismissed employees externally, for example by offering training.

Do ensure that during the consultation process, the most important discussion points (including all dissenting opinions) are formally recorded to prevent any future disputes.

Don't make any direct or indirect decisions regarding employees prior to finishing the consultation. This includes decisions and measures that may have a decisive impact on the employees' terms of employment or employments in general.

Don't forget there is an obligation on employers to re-employ people made redundant if a need for the same work returns. Therefore, the employer must rehire the original employee within a certain time period and cannot offer the role to someone different.

France

Arnaud Teissier

ateissier@capstan.fr

Céline Martinez

cmartinez@capstan.fr

1. Consultation requirements

Employers must consult with staff representatives (i.e. the social and economic committee) when they propose to make a number of dismissals on grounds of redundancy. The consultation must cover all affected employees, including those who may be impacted by the dismissal of others.

The consultation requirement is triggered by two or more proposed dismissals within a period of 30 days.

2. Ways to remain below the redundancy thresholds

Any job cut for economic reasons should in theory lead to an economic dismissal.

French law makers have created specific mechanisms to allow for voluntary departures in this context, such as the collective mutual termination scheme ('rupture conventionnelle collective') or the workforce planning and career path management ('GEPP'). These mechanisms must be agreed upon collectively with employee representatives and are subject to specific rules (albeit these rules are lighter than those applicable in cases of collective redundancy).

Staggered dismissals or individual departures (e.g. through individual mutual terminations) should not be seen as safe alternative measures in an economic context as they usually entail numerous civil and criminal risks.

3. Information requirements

The following information must be provided to staff representatives:

- the reasons for the proposed dismissals;
- the number of employees who are proposed to be made redundant;
- the total number of employees employed by the employer at the establishment;
- the proposed method of selecting employees for dismissal;
- the period over which the dismissals are to take effect;
- other economic measures that will be taken to cope with the circumstances that have given rise to the need to dismiss employees.

The start of the consultation period is marked by the provision of this information to staff representatives by the employer or by the first meeting with the staff representatives.

Staff representatives are heavily involved in the collective redundancy process, especially if the organisation must offer a plan to safeguard employment, which is negotiated with the trade unions (if any).

4. Consultation process

Collective dismissals for economic reasons are highly regulated and very complex. The applicable rules depend on the number of employees impacted and the size of the organisation.

On top of the preparation of the

documentation (which usually takes between one and three months depending on the size of the project), the consultation procedure with the staff representatives lasts a month for the dismissal of two to nine employees, and between two to four months for the dismissal of ten or more employees in organisations with 50 or more employees (with the timeframe depending on the number of contemplated dismissals).

If the employer contemplates the dismissal of ten or more employees in organisations with 50 or more employees, the employer must implement a plan to safeguard employment and request the approval of the labour administration (which takes either 15 days or 21 days depending on whether the plan is unilateral or agreed with the trade unions). The employer may not initiate the collective redundancy process without such approval.

After the end of the consultation procedure, or where approval has been granted if the plan to safeguard is mandatory, the organisation can implement the collective redundancy process, which usually takes between one and three months.

Note that the rules relating to consultation in relation to collective dismissals in France are highly complex and difficult to navigate. We have not gone into detail here and it is recommended that advice is taken if a collective dismissal is envisaged.

5. What if you fail to comply?

In a redundancy of ten or more employees in organisations with 50 or more employees, if the employer fails to comply with either the information or consultation requirements, the procedure and subsequent dismissals will be void. In addition, the employer could be found guilty of obstruction, which is punishable by a fine of up to EUR 7,500 for the legal representative and EUR 37,500 for the legal entity.

Depending on the number of dismissals involved, staff representatives may also ask for an administrative or judicial stay of the procedure so that they can be properly consulted.

Note that the rules relating to collective dismissals in France are highly complex and difficult to navigate. We have not gone into detail here and it is recommended that advice is taken if a collective dismissal is envisaged.

6. Selection order and protections against dismissal

A dismissal plan must target positions rather than individual employees, and criteria must be established to determine which employees will be dismissed.

When considering dismissal on economic grounds, the employer must divide the workforce into professional categories. These must be wider than specific positions and must group together employees who exercise similar functions, have had similar levels of training, and who may be substituted for each other after a short training period.

The employer must then apply the criteria for the order of dismissal. These are based on a points system created within the context of the dismissal plan that takes into consideration length of service, marital status, number of children, any disability, and professional skills.

When considering the dismissal of ten or more employees in organisations with 50 or more employees over a 30-day period, the organisation's management is encouraged to negotiate the content of the professional categories and the point system described above with the representative trade unions. If these negotiations fail, the employer may set them unilaterally. The content of the points system is subject to the approval of the Labour Administration in both cases.

Finally, special protections against dismissal apply to certain employees. Employers contemplating collective dismissals must bear these in mind as a dismissal carried out in spite of a protected status will be void. In these situations, the usual scales for unfair dismissal compensation do not apply, and the employee could be entitled to reinstatement (which includes the back payment of any salary due between the dismissal and reinstatement dates) or compensation of not less than the last six months' salary (no maximum limit applies).

The following categories of employees are notably protected:

- pregnant women and women on maternity leave, including up to ten weeks after the leave period has ended and any paid holiday period used just after the maternity leave;
- individuals whose child is born less than ten weeks before the contemplated notification date;
- employees benefiting from work-related sick leave;
- staff representatives.

7. Are additional payments required?

In the event of an economic dismissal, if an organisation belongs to a group with less than 1,000 employees in the EU and EEA (including 150 employees in two European countries), the company must offer external redeployment assistance through what is known as the CSP. The CSP is an agreement drawn up with the public unemployment authorities ('France Travail'), though the actual offer is made by the employer. On receipt of the offer under the CSP, the employee has 21 calendar days to consider the same. If the employee has at least one year of service and accepts the CSP, they will be entitled to receive more favourable unemployment allowances than the standard unemployment allowances, without any waiting period. This is funded by the payment of the notice period indemnity and related social security contributions by the organisation to France Travail (and not to the employee).

If the organisation belongs to a group with more than 1,000 employees in the EU and EEA (including 150 employees in two European countries), it must offer the redeployment leave. This is a period during which the employees who have been made redundant remain on the organisation's payroll and are not required to work. They receive part of their remuneration and benefits from outplacement services as well as training assistance to help them find new employment. By law, the redeployment leave must be between four and 12 months long. It is comprised of two parts: (i) part one is comprised of the employee's notice period, which is remunerated at 100% of what the employee would have earned had they worked; and (ii) part two is comprised of the remainder of the redeployment leave, for which the employee is paid at least 65% of their average gross salary.

In practice, international groups may have to offer more than these minimum requirements, especially if a plan to safeguard employment is mandatory, as the plan must include many additional measures, such as training fees and mobility measures.

8. Reputational issues

Restructuring exercises may, by their very nature, entail reputational risks, although these are not necessarily specific to France.

Employers may consider using other schemes recently created to avoid a pure restructuring exercise, such as the collective mutual termination scheme ('rupture conventionnelle collective') or the workforce planning and career path management ('GEPP'). These are easier to manage from a reputational point of view, although may also entail some challenges (e.g. being prevented from initiating the collective redundancy for a certain period of time afterwards).

9. Dos and don'ts

Do consider other measures, such as trying to find a new owner for the business through a confidential search, rather than going through a collective redundancy exercise.

Do go to the Labour Administration, which ultimately will have to approve the proposed redundancies (for companies with 50 or more employees intending ten or more redundancies), well in advance to explain the project.

Do encourage very strong dialogue with trade unions and the Social and Economic Committee to avoid the risk that they will make the process public to third parties.

Do make sure you have very regular communications with the employees; do not leave that to employee representatives.

Do make sure the project makes sense from a business perspective, to avoid the Social and Economic Committee's expert claiming that the project is short-sighted or is being done to please investors.

Do provide strong accompanying measures that are designed to reduce the impact of redundancies and allow redeployment (e.g. outplacement, coaching) rather than cash-based measures.

Don't act too soon. Prepare your business case well in advance, which will allow a good start and avoid hurdles.

Don't state that the redundancy project is decided until the end of the consultation phase.

Germany

Burkard Göpfert

burkard.goepfert@kliemt.de

1. Consultation requirements

There is no statutory requirement to consult with individual employees or trade unions where multiple dismissals are proposed.

However, if there is a works council, the employer must involve the relevant works council in collective dismissals by informing and consulting if a certain threshold is met (see below). If there is an economic committee, it may need to be given sufficient information in advance about the initiative that causes the need for collective dismissals. Further, the employer may need to notify the Local Employment Agency of the collective dismissals (and consult with the works council as part of this) before employees are notified about the dismissals.

In this context, terminating a certain number of employees may qualify as an operational change, which triggers further consultation rights for the works council. These rights apply (inter alia) when a certain number of employees in a business will be made redundant due to an operational change. The number of employees varies according to the size of the establishment, as follows:

- in establishments with 21 to 59 employees, more than five employees;
- in establishments with 60 to 499 employees, 10% of the total workforce or more than 25 employees;
- in establishments with 500 or more employees, at least 30 employees.

However, in all cases, at least 5% of the employees in the establishment must be affected by the initiative to trigger the obligation to consult. The obligations under law apply to employers that regularly employ more than 20 employees. In relation to the thresholds, the relevant number of employees is calculated based on each termination notice served and every termination agreement concluded. All dismissals resulting from the same business decision must be included in calculating the number of dismissals.

2. Ways to remain below the redundancy thresholds

If the dismissals are based on a unilateral company decision, the participation of the works council and – if applicable– the obligation to negotiate a balance of interests and conclude a social plan (see 'Information Requirements' below) does not depend on the period in which the dismissals are set to take effect or when notice of termination is to be delivered to the employees. For this reason, it is very difficult to deploy alternative measures to remain below the thresholds that trigger these obligations. Further, if such dismissals are based on the same company decision, they are added together for the purposes of the thresholds set out in question one. This also applies to voluntary programs that the employer uses to achieve a consensual reduction in the number of employees.

The obligation of the employer to notify the local employment agency (and consult with the works council as part of this) in the event of a mass dismissal is different from that.

The obligation to notify the Local Employment Agency in the event of a mass dismissal and to consult with the works council applies if dismissals

are to be made within a period of 30 calendar days (taking into account the date on which notice of termination is given to the employee(s), not when the dismissals become effective). In order to avoid triggering the threshold and therefore the obligation to notify the Local Employment Agency, the dismissals may be spread out. However, the employers must carefully consider which employees they are allowed to dismiss and at what point in time. Termination agreements concluded at the employer's request due to the planned change also count as dismissals subject to the notification. They must therefore be included in the total number of the planned dismissals. If there is a works council and a balance of interests and a social plan must be negotiated, stretching the dismissals may not be economically viable. Whether it is or not must be decided on a case-by-case basis.

3. Information requirements

The information that needs to be provided depends on the stage of the process.

Information rights of the Economic Committee

If there is an Economic Committee, the employer must inform the Committee comprehensively and in good time about the economic affairs of the company, submitting the necessary documents, insofar as this does not jeopardise the employer's business and trade secrets, and state any resulting effects on personnel planning. The Economic Committee has the task of discussing such economic matters with the employer and informing the works council.

Co-determination rights of the works council

In accordance with general co-determination rights, the works council must be informed about all aspects of the proposed collective dismissals as an operational change. The information must cover all details of the proposed dismissals and their reasons. The works council can request to be provided with documents (e.g. reports by management consultants and balance sheets) relating to the collective dismissals that constitute an operational change. In companies with more than 300 employees the works council is allowed by law to engage a consultant in order to seek external expertise on the consultation of operational changes. The employer must bear the costs of the consultant.

The employer must consult with the works council before managerial decisions on the collective dismissals are finalised. The employer and the works council should discuss aspects of the proposed collective dismissals that constitute an operational change using information provided by the employer. The goal of the consultation process is a formal 'balance of interests' agreement (i.e. balancing the employer's interests against those of the employees). The balance of interests agreement usually sets out the actions proposed by the employer, identifies the affected employees and states how they will be affected. A balance of interests agreement is not mandatory, but the employer must attempt to come to an agreement. If such an agreement cannot be reached, the employer and the works council must commence formal arbitration proceedings with the arbitration board (known as the 'Einigungsstelle'). The arbitration board will try to negotiate between the employer and the works council, but it does not have the power to impose a balance of interests agreement. Therefore, arbitration board proceedings may end with the conclusion that the attempt to reach a balance of interests has failed. However, the employer is obliged to negotiate in good faith and must endeavour to reach an agreement with the works council.

For collective dismissals that constitute an operational change, a social plan is usually mandatory as part of the consultation process in accordance with the general co-determination rights of the works council (it is, however, not mandatory for the process of notifying the Local Employment Agency). If the redundancy consists only of the dismissal of employees and does not involve any other operational change, a social plan will only be mandatory when the number of employees being made redundant is over a certain figure, as follows:

- in establishments with less than 60 employees, 20% of the workforce but at least six employees are to be dismissed;
- in establishments of 60 to 249 employees, where at least 37 employees or 20% of the workforce are to be dismissed;
- in establishments of 250 to 499 employees, where at least 60 employees or 15% of the workforce are to be dismissed;
- in establishments with at least 500 employees, 10% of the workforce but at least 60 employees are to be dismissed.

The decisive factor is not the time frame in which the redundancies are to take place, but whether they are based on the same business decision by the employer.

The social plan aims to compensate for economic disadvantages for those employees affected by the collective dismissal. The social plan usually includes termination payments for affected employees and other mitigating measures.

If the social plan is mandatory and the employer and the works council cannot reach an agreement, they must commence formal arbitration proceedings with the arbitration board. The arbitration board will draw up a binding social plan if the employer and works council fail to reach an agreement during the proceedings. In doing so the arbitration board may deviate from what the employer has proposed.

The Federal Supreme Labour Court has held that a social plan based on a collective bargaining agreement may also be negotiated by the trade unions. Based on this decision, trade unions may also call a strike in order to enforce a social plan.

Procedure for notifying the works council and the Local Employment Agency

In addition, it may be necessary for the employer to inform the works council and notify the Local Employment Agency of the dismissals. Whether this information and notification is mandatory depends on whether certain thresholds are met. These do not exactly correspond to the thresholds for the co-determination right described above for the mandatory social plan. The obligation applies if, within 30 calendar days, the dismissals are as follows:

- in establishments with generally more than 20 and fewer than 60 employees, more than five employees;
- in establishments with generally at least 60 and fewer than 500 employees, 10% of the employees regularly employed in the establishment or more than 25 employees;
- in establishments with usually at least 500 employees, at least 30 employees.

This includes not only dismissals, but all employer-initiated terminations resulting from the business decision leading to the mass dismissal (e.g. separation agreements).

Before the Local Employment Agency is notified of the collective dismissals, the employer must inform the works council in writing and in a timely manner of the following information:

- the reasons for the planned dismissals;
- the number and occupations of employees to be dismissed;
- the number and occupations of the employees regularly employed;
- the period of time over which the dismissals are to take place;
- the intended criteria for the selection of the employees to be dismissed; and
- the criteria for calculating any severance payments (if any).

As part of the procedure for notifying the Local Employment Agency, the employer must also consult with the works council on how to avoid and limit individual dismissals. Further, the parties must consult on ways to mitigate the effects of the dismissals. At the end of the consultation with the employer, the works council should draw up a written statement about the proposed dismissals. This statement must be provided to the local employment agency with a written copy of the information about the collective redundancy.

This step will often be made in parallel to the co-determination process described above regarding the operational change.

The notification to the Local Employment Agency must be in writing. However, the approval of the Local Employment Agency is not necessary. The employer must provide the Local Employment Agency with at least the following information:

- the employer's name;
- the head office;
- the nature of the business;
- the reasons for the planned dismissals;
- the number and occupations of the employees to be dismissed;
- the number and occupations of employees employed regularly;
- the period of time over which these dismissals are to take place; and
- the intended criteria for the selection of the employees to be dismissed.

Further, in agreement with the works council and for the use of the Local Employment Agency, the notification should give the gender, age, and nationality of the employees to be dismissed. The notification should also include a written statement by the works council. If the works council does not produce a statement, the employer must give adequate evidence in the notification that two weeks have passed between providing written information to the works council and notifying the Local Employment Agency. Even if there is no works council, the employer must still notify the Local Employment Agency.

Once the notification procedure is complete, notice of termination can be delivered to the employees. The law stipulates that the individual dismissals shall not take effect until one month after the dismissal notice has been submitted to the Local Employment Agency. This waiting period may be shortened upon request, provided that there are special reasons for doing so. In individual cases, the Local Employment Agency may also stipulate that the dismissal shall not take effect until two months after the notification, although special reasons must be given for doing so. In practice, this waiting period for mass dismissals is neither regularly extended nor shortened. In fact, the waiting period does not usually play a major role, as the individual notice periods for employees are usually longer or as long as the waiting period. The waiting period for the dismissal is usually only relevant if a large number of the affected employees are still in their probationary period.

4. Consultation process

The best practice process for the required consultation is for the employer to carry out the negotiation with the works council before notifying the Local Employment Agency. The employer should also fulfil the general co-determination rights of the works council (regarding the operational change) at the same time. Typically, the consultation with the works council, including negotiations on the balance of interest and social plan can last between four weeks to six months depending on the operational change. This also depends on whether the arbitration board needs to take action because the employer and works council cannot reach an agreement internally. If the arbitration board itself needs to be set up by a court because the parties cannot agree on its composition, such legal dispute may take another one to three months.

For the notification of the Local Employment Agency, the Federal Employment Agency has published a standard form for collective dismissal

cases, which is available on the website of the Federal Employment Agency. Once the notification procedure is complete and submitted to the Local Employment Agency, notices of termination can be delivered to the employees. The dismissals will take effect at the earliest after one month has passed, unless this period is either reduced to a minimum of zero days or increased to a maximum of two months by the Local Employment Agency.

5. What if you fail to comply?

Co-determination rights of the works council (operational change)

If the employer disregards the co-determination rights of the works council before starting the collective dismissal, some local labour courts will grant preliminary injunctions, ordering the employer to suspend the collective dismissal until the procedural requirements have been met. If the employer has not tried to reach a balance of interests agreement with the works council before commencing the collective dismissal, employees can claim a termination payment as well as additional compensation for economic disadvantages from the employer at the local court. The termination payment is capped at a maximum of 18 times the monthly gross salary and additional compensation of a maximum of 12 months. The same applies if the employer deviates from an existing balance of interests agreement without good reason.
A fine of up to EUR 10,000 may be imposed on an employer that fails to comply with its obligations regarding the disclosure of information to the works council. This includes withholding information completely as well as providing wrong, incomplete or belated information.

Procedure for notifying the Local Employment Agency and consulting the works council

If the employer fails to give proper notification to the Local Employment Agency and/or does not consult with the works council as described above before the termination notices are delivered to the employees, the terminations are considered void. Therefore, each employee can individually file a claim to the local labour court that their dismissal was invalid.

6. Selection order and protections against dismissal

For a dismissal for operational reasons in establishments with no more than ten employees, the employer is, in general, free to decide who it wishes to dismiss.
If the establishment has more than ten full-time equivalent employees, a 'social justification' is required. This means that there needs to be a reason for the dismissal and the employer is not free to decide whom to dismiss. The employer must carry out a 'social selection' between comparable employees on the same level in the establishment and may only dismiss the employees least in need of protection. Employees who have been employed by their employer for less than six months cannot, in principle, claim that they are more in need of social protection.

To do the selection, the employer must first establish comparison groups. A comparison group includes all employees who are interchangeable and on the same level within the establishment and who have been employed for at least six months. The employer must then make a social selection based on the statutory criteria of length of service, the age of the employee, whether the employee has dependants, and whether the employee is disabled. It is possible to group comparable employees by age if there is a specific reason for doing so, e.g. to maintain the age structure within the establishment. The employer may exclude individual top performers from the social selection if their continued employment is in the legitimate interests of the company. However, the requirements for this are high.

A further prerequisite for an effective dismissal for operational reasons is that there is no other opportunity within the company to employ the person being dismissed. If there are vacancies that the employee could fill, the employer must offer them to the employee first. This also includes cases where the employee can be trained for the vacant position within a reasonable period of time. Termination may only be used as a last resort.

In the context of dismissals for operational reasons, the employer must take into account the special protection against dismissal of certain groups of employees. These include in particular:

- mothers during pregnancy and up to four months after childbirth;
- employees on parental or adoption leave;
- employees with a severe disability;
- works council members;
- members of certain other employee representative bodies (e.g. representatives of young people and trainees).

The dismissal of an employee in one of these groups is invalid unless the requirements for the application of special statutory exceptions are met. The requirements for this vary depending on the type of protection against dismissal. For example, protection is particularly high for members of the works council who can generally only be dismissed if the entire establishment is closed down or if their department is closed (and they cannot be employed in another department of the establishment).

7. Are additional payments required?

The works council (or in some instances the trade union) will generally negotiate a 'social plan' in cases of collective dismissals that constitute an operational change, and in many cases such a plan is required by law. If the social plan is required, and the employer and works council

cannot agree on their own, they must reach an agreement in proceedings before the arbitration board. If this also fails, the arbitration board can decide on a social plan. The purpose of the social plan is to compensate employees for the disadvantages they suffer as a result of the operational changes. In the case of mass dismissals, this is the loss of their job.

In practice, the social plan will usually make provisions for severance payments to compensate for the disadvantages caused by the termination of employment. There is no legal minimum or maximum for a severance payment in a social plan. However, the severance payment is often calculated using the following formula: length of service multiplied by monthly gross salary multiplied by a certain factor. The level of the factor depends on the disadvantage of dismissals for the employees and the economic strength of the employer. It could, for example, vary between 0.5 and 1.2.

The social plan will typically also cover an array of other mitigating measures such as qualification measures and relocation packages. In some cases, a 'transfer' company can be requested to take on the employees for training purposes; this transfer is government-funded for up to 12 months if the legal requirements are met.

8. Reputational issues

There are no jurisdiction-specific reputational issues for employers doing restructurings. The risk of reputational damage is always likely to be less intense in times of crisis, as downsizing across all industries (and the associated economic impacts) is prominently depicted in the media. In these cases, it is anticipated to some degree that some employers will be forced to impose headcount reductions. In any case, internal and external communication that is early, open and appreciative can also minimise the damage to reputation. In this context, special attention should be paid to the media presence. Cooperation with communication trainers can be beneficial.

9. Dos and don'ts

Do inform the committees to be involved (e.g. economic committee, works council) promptly and comprehensively in order to avoid coming into conflict with them at the beginning. This way you have control and can steer the later negotiations in a certain direction if necessary.
Do prepare a precise schedule and timetable at the beginning of the restructuring process to avoid having the process derailed later by failure to comply with the legal requirements for proper and timely mass dismissal notification to the works council and the Local Employment Agency.

Do take the time to consider whether internal regulations need an overhaul, including reskilling and (re-)qualification programmes, compensation schemes and working time rules.

Do choose modular restructurings and agree on flexible framework agreements with employee representatives (instead of one 'big bang') to allow for consideration of future developments and workforce needs.

Do consider the long-term effects of workforce reduction and contemplate alternative measures, such as temporary lease of employees, sabbaticals, or modifying compensation schemes and/or the working time regime. Carve-outs can also be a way to restructure the organisation.

Don't rush the process. Even if a short timeline for implementing the operational change seems tempting at first glance, it can have serious consequences in the long-term. Failure to comply with the process for the proper involvement of the works council and the Local Employment Agency may result in the invalidity of the redundancies. That may jeopardise the project and cause higher costs than a proper information and consultation process.

Don´t ignore the concerns of the works council. If there is an obligation to negotiate a balance of interests agreement and you are obliged to conclude a social plan, you should work together with the works council to find a quick and suitable solution.

Hong Kong

Catherine Leung

catherine.leung@lewissilkin.com

1. Consultation requirements

Since there is no concept of 'collective dismissal' in Hong Kong, employers are not legally obliged to consult with an employee or explore alternatives to redundancy before proceeding to terminate an employee's employment.

2. Ways to remain below the redundancy thresholds

Although there are no statutory redundancy thresholds in Hong Kong, employers can consider alternative measures that minimise disruption, maintain morale, and reduce legal risk. Voluntary redundancy schemes, redeployment and retraining schemes, reduction in working hours or pay, hiring freezes and offering early retirement packages are all viable options to consider.

3. Information requirements

There is no legal obligation to provide any information regarding the collective dismissals or the reasons for the dismissals to any statutory bodies. However, if an employee has had two or more years of service under a continuous contract, an employer must have a valid reason for their dismissal. Redundancy would be considered a valid reason for dismissal.

4. Consultation process

There is no consultation obligation where multiple dismissals are proposed.

5. What if you fail to comply?

There is no requirement to inform or consult employees in relation to collective dismissals.

6. Selection order and protections against dismissal

Hong Kong law does not require any particular selection order in relation to collective dismissals. However, the law prohibits an employer from terminating the employment of an employee (including by reason of redundancy):

- who is on paid statutory sick leave;
- who is pregnant and has served notice of her pregnancy to the employer;
- who has suffered an injury at work, when no agreement as to the employee's compensation has been reached or a certificate of assessment has not yet been issued by the Commissioner for Labour; or
- who is serving jury duty.

Employers should also take care when it comes to the reason for the dismissal. Any dismissal because of an employee's trade union membership and activities or by reason of an employee giving of evidence or information in any proceedings in connection with work accidents, breach of work safety legislation, or enforcement of labour law, is prohibited.

Employers terminating an employee in any of the above circumstances will

be guilty of a criminal offence and be liable to a fine (and imprisonment in some instances) upon conviction.

Anti-discrimination legislation also prohibits employers from terminating employment on discriminatory grounds such as on the basis of a person's disability, family status, sex, pregnancy, marital status, breastfeeding or race.

7. Are additional payments required?

No, employees who are terminated for redundancy are entitled to the same severance payment (provided they have two or more years of service) regardless of whether the redundancy is individual or collective.

8. Reputational issues

Hong Kong's unique political environment as a Chinese special administrative region means that business decisions can sometimes be interpreted through a political lens. For example, restructurings that are perceived as being influenced by political considerations, or that disproportionately affect certain groups, may attract additional scrutiny from activists, NGOs, or international observers.

For multinational employers, actions taken in Hong Kong can have reputational repercussions in other jurisdictions, especially if the restructuring is part of a global strategy. Consistency in treatment and messaging is important to avoid perceptions of double standards.

In general, employers carrying out a restructuring should also observe the cultural practices and norms of their respective jurisdictions. For example, employers in Hong Kong should avoid terminating employment where possible around the Chinese New Year period.

9. Dos and don'ts

Do ensure compliance with employment laws, including notice periods, and severance payments.

Do ensure strict compliance with the Companies Ordinance (Cap. 622), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), and other relevant legislation. The statutory procedures for schemes of arrangement, voluntary arrangements, and winding up must be followed.

Do ensure that redundancy decisions are based on fair, objective, and non-discriminatory criteria, and that none of the statutory protections are breached.

Do engage affected employees as early as possible.

Do consider cross-border issues.

Do maintain clear records of all decisions, communications, and steps taken during the restructuring process.

Don't delay or withhold final payments, including outstanding wages, accrued but unused annual leave, bonuses, and other contractual entitlements. These must be paid within seven days of termination unless tax withholding obligations apply.

Don't overlook immigration issues or forget to address visa or work implications for non-local employees. Termination or changes in employment may affect their right to remain in Hong Kong.

Don't assume that there are no implications or liability in relation to contractors. Some contractors may be deemed employees under Hong Kong law, entitling them to statutory protections.

India

Gagan Verma

gagan.verma@kochhar.com

1. Consultation requirements

Under Indian law, there is no legal requirement to consult with employees where multiple dismissals are proposed.

However, employers have the discretion to inform the recognised trade union about multiple dismissals to avoid disputes or hostile working environments. This might also be required under the terms of an applicable collective agreement between the employer and the recognised trade union.

2. Ways to remain below the redundancy thresholds

Indian law does not define collective or mass redundancy, nor does it prescribe specific numerical thresholds that trigger enhanced consultation or procedural requirements for multiple dismissals. Employers in India are therefore not required to consider alternatives to specifically remain below any statutory threshold, as no such threshold exists under current legislation. The Industrial Disputes Act ("ID Act") and various state-level Shops and Establishments Acts apply the same procedural requirements regardless of the number of employees being terminated.

In the absence of any prescribed process, the preferred alternative to formal redundancy proceedings in India involves offering employees the opportunity to resign voluntarily with payment of a discretionary ex-gratia amount as an incentive. This ex-gratia amount is in addition to the statutory severance compensation that applies in cases of the 'workmen' category of employee (see further below under 'Selection order and protections against dismissal'). This approach has become standard practice across most private sector organisations as it facilitates smoother transitions and reduces the likelihood of legal disputes.

Voluntary Retirement Schemes constitute another alternative, though these are predominantly utilised within manufacturing enterprises and public sector undertakings where structured frameworks for such schemes have been established through collective bargaining agreements or government policies. Private sector service organisations generally find the resignation-with-compensation model more flexible and expedient for managing workforce reductions.

3. Information requirements

In the case of redundancy, an employer is generally required to provide certain information to the federal or state government, as appropriate, and to employees and it must also comply with certain requirements in relation to information. These are to:

- give information about the reasons for the proposed redundancy;
- give details of the numbers and descriptions of employees to be made redundant;
- give details of the total number of employees who are employed by the employer at the establishment;
- display a seniority list of the employees proposed to be made redundant at the establishment at a specified place in the

workplace; and
- provide a notice to the federal or state government, as appropriate, about the redundancies and the payment of redundancy compensation.

An employer is also required to inform the appropriate state authority in the case of termination of employment. This may also be an obligation under an applicable collective agreement.

4. Consultation process

There is no legal requirement for consultation. However, in line with industry practice, organisations generally announce redundancies in a meeting with the employees. During the meeting the employer will also provide severance payment details to ensure a smooth separation process and mitigate the possibility of any dispute. Some organisations also provide help with securing alternate employment by introducing the employees to placement agencies. Depending upon the size of workforce and process being followed, this could take any time from a few days to several weeks.

5. What if you fail to comply?

Unless an applicable collective agreement or employment contract makes information or consultation requirements, employers are not under a legal obligation to inform or consult the employees prior to dismissals.

In the case of a breach of the terms of a binding collective agreement that requires information or consultation, certain penalties provided by law may

be imposed on the employer.

6. Selection order and protections against dismissal

An employer will first need to determine which employees are 'workmen' under the ID Act and which employees are 'non-workmen'.

A workman would generally be any employee engaged to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, but would not include an employee engaged in:

- a managerial or administrative capacity; or
- a supervisory capacity, drawing wages of more than INR 10,000 per month.

It is the actual job of the employee (and not the job title) that is critical in this.

The ID Act lays down a 'last in, first out' system under which the employer is statutorily required to make redundant the 'workman' last employed in the relevant employment category in the organisation, unless the requirement is contracted out by both parties or the employer is able to provide valid reasons for deviating from this requirement.

The above does not apply to 'non-workman' category employees.

Employers must also take care with regard to the dismissal reason. Termination of employment is unlawful if it is related to:

- trade union membership or activity;
- filing complaints against the employer;
- race;
- colour;
- sex;
- marital status;
- religion or belief;
- disability;
- gender reassignment;
- political opinion; or
- social origin.

In addition, the law provides that the employer must not dismiss any employee, including during a collective dismissal situation, who is receiving sickness or maternity benefit. Termination of employment involving any 'unfair labour practices', as set out in law, is invalid.

7. Are additional payments required?

In all cases of redundancy (whether collective or individual), an employer is required to provide one month's notice to the employee (or a longer period if required under the employment contract) or pay salary in lieu of notice. In the case of an establishment with 100 or more workmen, the applicable notice period would be three months. Additionally, the employer is required to make a severance payment at the rate of 15 days salary for every completed year of service or period of more than six months.

8. Reputational issues

Restructuring exercises in India's major technology and business hubs including Bengaluru, Hyderabad, Chennai, Pune, Mumbai, and Gurugram face particular reputational challenges due to the concentration of media presence and organised labour activity in these cities. These metropolitan centres house the majority of India's information technology, business process outsourcing, and professional services workforce, where any significant workforce reduction attracts immediate media attention and public scrutiny.

The presence of active trade unions and employee associations in these urban cities means that news of an impending restructuring spreads rapidly through both traditional media channels and digital platforms. Social media amplification of restructuring announcements often leads to broader public discourse about corporate responsibility, particularly when profitable organisations

undertake workforce reductions. The interconnected nature of professional communities in these cities means that reputational impact extends beyond immediate stakeholders to affect future recruitment efforts and business relationships.

Furthermore, given that these cities contribute significantly to state revenues and employment generation, local government authorities often take keen interest in large-scale redundancies, sometimes intervening through labour departments or public statements that can influence public perception of the restructuring exercise.

9. Dos and don'ts

Do carefully classify all affected employees as either 'workmen' or 'non-workmen' before initiating the redundancy process, as this classification determines which legal framework applies and what compensation must be paid. Document all business justifications for the restructuring comprehensively, maintaining evidence of financial necessity or operational requirements that necessitate workforce reduction. Offer voluntary resignation options to affected employees with an appropriate ex-gratia amount as an incentive, as this approach typically results in smoother separations and reduces litigation risk.

Do ensure full compliance with notice period requirements and payment timelines under applicable legislation, particularly the legal requirement to settle all outstanding payments within two days of the last working day. For 'workmen' employees, file the mandatory redundancy notifications with the jurisdictional labour authorities in the prescribed format. Prepare standardised communication scripts for management to ensure consistent and legally compliant messaging across all employee interactions.

Don't ever attempt to bypass statutory requirements by misclassifying workmen as non-workmen or by artificially structuring the redundancy timeline. Avoid making any announcements about final redundancy decisions before completing required consultations with recognised trade unions or employee representatives where applicable. Do not discriminate in selection criteria or deviate from the last-in-first-out principle for workmen without valid and documented operational justifications.

Don't pressure employees to accept unfavourable separation terms or withhold statutory entitlements such as gratuity, earned leave encashment, or statutory severance compensation.

Don't ever terminate employees who are on approved medical leave, maternity leave, or other statutorily protected absences. Avoid inconsistent treatment between different employee groups that could give rise to discrimination claims or industrial disputes.

Don't overlook the requirement to provide proper employment certificates, experience letters, and other documentation that affected employees need for future employment or to access unemployment benefits.

Don't rush the redundancy process without adequate planning, as procedural violations can invalidate terminations and result in reinstatement orders with full back pay of wages.

Ireland

Síobhra Rush

siobhra.rush@lewissilkin.com

Niamh Crotty

niamh.crotty@lewissilkin.com

1. Consultation requirements

An employer must enter into a collective consultation process with employee representatives if there is a collective redundancy situation. A collective redundancy occurs when, within 30 days, the number of proposed dismissals by reason of redundancy is:

- at least five in an establishment normally employing more than 20 and fewer than 50 employees;
- at least ten in an establishment normally employing at least 50 but fewer than 100 employees;
- at least 10% of the number of employees in an establishment normally employing at least 100 but fewer than 300 employees; and
- at least 30 in an establishment normally employing 300 or more employees.

The number of employees employed in an establishment is the average number employed in each of the 12 months before the date on which the first notice of redundancy is given. An 'establishment' is 'an employer or a company or a subsidiary company or a company within a group of companies which can independently effect redundancies.'

The consultation must cover all affected employees, including those who may be affected by the dismissal of others. The consultation should take place with employee representatives. This will be union representatives where the employer recognises the union in respect of the affected employees, or an 'excepted body' with which it has been the practice of the employer to conduct collective bargaining negotiations. If there are no recognised unions and no excepted bodies, the employees must be given the opportunity to elect employee representatives to represent them in the consultation process. There is no legally prescribed process for selecting employee representatives.

Regardless of whether collective consultation obligations are triggered, the employer must separately consult directly with employees who may be made redundant (even if only one employee is impacted). There is no formal statutory consultation process, but the employer must consult individually with each employee selected for redundancy in order for the dismissal to be fair.

2. Ways to remain below the redundancy thresholds

Employers must take into account all potential or proposed dismissals known at the time that will (or it is proposed will) result in notice of termination being issued within a 30-day rolling period. (This includes dismissals that aren't necessarily connected with the collective redundancy). As such, it is possible to stagger the proposed dismissals to ensure that the number of notices of redundancy issued (or proposed to be issued) within a 30-day period is less than the collective redundancy thresholds.

However, and while there are no specific provisions prohibiting this in Irish legislation, this approach may be criticised by an adjudication officer in the event of a complaint being brought to the Workplace Relations Commission by impacted employees, such as for failure to properly inform

and consult. There has also been some negative media attention recently, accusing certain employers of deliberately staggering dismissals to avoid collective consultation obligations.

Offering voluntary redundancy will not necessarily avoid collective redundancy obligations, as voluntary processes normally arise where proposed redundancies have already been announced or are at least contemplated. Furthermore, the threshold can be reached where other dismissals (which aren't redundancy related) are included in the calculations. So voluntary redundancy will generally still meet the definition of dismissals in a 30-day period, notwithstanding the fact that employees can choose whether or not to accept it.

3. Information requirements

In a collective redundancy situation, the following information must be provided to the employee representatives:

- the reasons for the proposed redundancies;
- the number, and the descriptions or categories, of employees who may be made redundant;
- the total number, and the descriptions or categories, of employees normally employed at the establishment;
- information about the employer's use of agency workers (how many, where they are working, and the type of work they carry out);
- the period over which it is proposed to carry out the redundancies;
- the proposed criteria for selecting employees for redundancy;
- the proposed method of calculating the amount of redundancy pay to be made (over and above the statutory redundancy payment);
- all other relevant information.

Employers must consult with employee representatives on the above information and about ways of avoiding the redundancies, reducing their number or mitigating their consequences (e.g. by redeploying or retraining). The consultation must take place at the earliest opportunity and this must be at least 30 days before the first notice of dismissal.

A copy of the information provided to the employee representatives must also be provided to the Minister for Enterprise, Trade and Employment as soon as possible. This can now be submitted electronically, as well as by registered post or hand delivery.

Where an employer proposes collective redundancies, the employer must also provide the following information to the Minister at the earliest opportunity and, in any event, at least 30 days before the first dismissal takes effect (i.e. notice of dismissal):

- the name and address of the employer and whether the employer is a sole trader, partnership or company;
- the contact details of the employer, and if the employer is a company, its CRO number;
- the address of the establishment;
- the total number of people normally employed at that establishment;
- the number and descriptions or categories of employees proposed for redundancy;
- the period during which the collective redundancies are proposed to be carried out, with the dates on which the first and last dismissals are expected to take effect;
- the reasons for the redundancies;
- the names and addresses of the employee representatives with whom the employer normally conducts collective bargaining negotiations; and
- the date on which consultations with each employee representative started and their progress.

A copy of this notification must be given to the employee representatives, who may make written observations to the Minister.

4. Consultation process

The legal minimum requirement for a consultation is that it must cover:

- ways to avoid the proposed redundancies;
- ways to reduce the number of employees proposed to be dismissed;
- ways to mitigate the consequences of the redundancies; and
- the selection criteria.

Consultation must take place 'with a view to reaching agreement'. This means that the parties do not have to agree, but the consultation process must be genuine and the employer must be open to suggestions from the representatives. These suggestions should be considered and documented as part of the consultation process.

In practice, employers will usually consult on all of the issues covered by the initial list of information they provide to the representatives. In particular, it is good practice to consult on the proposed method of selecting the employees for redundancy. Failure to do so can result in redundancy dismissals being deemed unfair if a claim is brought by an employee to the Workplace Relations Commission.

Consultation must begin at the earliest opportunity. At a minimum, it must start at least 30 days before the first notice of dismissal is given.

In practice, consultation will normally last for most of the minimum 30-day period and sometimes longer, although it can end earlier if the employer and representatives agree, provided no notice of dismissal is issued within the 30 days. There is no statutory minimum number of collective consultation meetings which must be held, but it would be standard practice to hold at least three meetings depending on the complexities of the consultations.

5. What if you fail to comply?

An employer who fails to comply with the information or the consultation requirements may be guilty of a criminal offence and liable on summary conviction to a fine of up to EUR 5,000.

Failure to notify the Minister for Enterprise, Trade and Employment as required by law can leave the employer liable to a fine of up to EUR 5,000. Where collective redundancies take effect before 30 days has elapsed since the date of notification to the Minister, the employer may be liable to a fine of up to EUR 250,000. Failure to maintain records showing compliance with statutory requirements may also render the employer liable to a fine of up to EUR 5,000.

If any of the above offences are committed with the consent (or by the neglect) of any director, manager, secretary or other officer of the employer or any person who was purporting to act in any such capacity, that person may also be guilty of an offence.

An employee may present a complaint to the Workplace Relations Commission that an employer has contravened the requirement to inform and/or consult with employee representatives, and/or that they were made redundant before the end of the 30-day period starting on the date the Minister was notified. An adjudication officer of the Workplace Relations Commission may:

- declare that the complaint is or is not well founded;
- require the employer to take a specified course of action to comply with the legislation; and/or
- require the employer to pay to each employee compensation not exceeding four weeks' pay for each breach (i.e. 12 weeks in total).

Outside of the collective redundancy requirements, in any redundancy scenario (whether collective or individual) failure to adequately consult with an employee prior to deciding that their role is redundant could expose the employer to a statutory claim for unfair dismissal by the employee under the unfair dismissals legislation. This type of claim is taken before the Workplace Relations Commission. The legislation provides that the reason for dismissal must be fair and the process used to reach that decision must also be fair. Maximum awards for unfair dismissal are up to two years' gross pay and benefits.

6. Selection order and protections against dismissal

There is no statutory selection order for collective redundancy dismissals under Irish law.

However, an employee may bring a claim for unfair dismissal and/or discrimination (as applicable) if they are selected for redundancy based on:

- trade union membership or activities;
- religious or political opinions;
- pregnancy, childbirth, maternity leave, or related matters;
- involvement in civil or criminal proceedings against the employer (e.g. where an employee is a party or a witness);
- taking or proposing to take statutorily protected leave (e.g. paternity, adoptive, parental or parent's leave, among others);
- on grounds of a protected characteristic under equality legislation (e.g. gender, family status, civil status, religion, age, race, sexual orientation, disability or membership of a travelling community); or
- making a protected disclosure (i.e. whistleblowing).

The recommended practice for employers is to use a selection matrix of objective criteria to select employees for redundancy in order to ensure a fair and non-discriminatory process is followed.

There are also protections against dismissal for employees on certain types of statutory leave. For example, it is not possible to issue notice of dismissal to employees on maternity leave, paternity leave or adoptive leave and any such notice will be void. It is possible to issue notice to employees on parental leave, parents leave and carer's leave, but the notice period will be extended so that the termination date is after the relevant leave ends.

7. Are additional payments required?

In any redundancy scenario (whether collective or individual), employees may be entitled to a statutory redundancy payment where they have two years or more of service with the employer. However, employees have no statutory entitlement to any additional payments due to the collective nature of the redundancy exercise. Employees may be entitled to an additional redundancy payment in a collective redundancy situation only if this is expressly provided for in a collective agreement, in their employment contract, or if it is an implied term and condition of their employment by virtue of the employer's custom and practice in previous collective redundancy exercises.

8. Reputational issues

There is a fairly low risk of reputational damage in Ireland if an employer complies with its legal obligations. However, significant numbers of redundancies or staggering redundancies may attract negative media attention, which an employer should take care to manage, particularly where trade unions seek to become involved.

9. Dos and don'ts

Do carefully plan the collective redundancy process (i.e. make sure to look at the proposed numbers, thresholds and timelines).

Do keep trusted staff employee bodies and recognised trade unions onside with credible, and well-prepared background information and justifications for action.

Do prepare easily understood information for affected people (e.g. reasons, timing, severance packages).

Do prepare very thoroughly where selection of employees is an issue, as this is the key area for disputes.

Do create FAQs and information sources for employees affected as they will have many questions.

Don't ignore the need to consult, particularly with trade unions and employee bodies.

Don't miss the collective consultation thresholds. This could lead to potential criminal liability and significant fines – even though in practice, prosecution is rare.

Don't forget that the better the communication and the more human you can be about the process, the smoother it will be.

Don't forget to add in some sweeteners to the package to make it attractive.

Don't do the downsizing in small, repeated exercises. While it might be tempting to reduce the numbers and stagger the dismissals to avoid a collective process, we have found that a bigger, deeper and earlier cut maintains morale much better.

Don't forget that how you act at this time to support employees will be remembered for a long time.

Italy

Ornella Patanè

sop@toffolettodeluca.it

1. Consultation requirements

An information and consultation procedure with works councils and/or trade unions applies when an organisation with more than 15 employees (including executives) intends to make at least five employees (including executives) redundant within a period of 120 days in the same business unit or in multiple business units within the same province. The redundancies must be based on economic reasons resulting from the reduction or transformation of activity or work or the cessation of activity. Fixed-term contracts that come to an end are excluded for the purposes of calculating the number of dismissals.

The procedure also applies to organisations that have suspended employees as a result of a crisis, a reorganisation or insolvency, where it will not be possible to re-employ all the employees and they are in receipt of financial assistance from the "Cassa Integrazione Guadagni Straordinaria", or 'CIGS', granted by the National Social Security Institute.

Italian case law has recently held that these information and consultation procedures may apply not only in the case of redundancies, but also when the employer unilaterally and substantially changes the terms and conditions of the employment (e.g. a collective transfer of workplace). This is in line with the related EU case law which held that any substantial modification of the essential terms and conditions of the employment contract for reasons not inherent to the person of the employee falls within the definition of 'dismissal'.

2. Ways to remain below the redundancy thresholds

The main alternative measures that employers commonly adopt to remain below the thresholds that trigger collective redundancy procedures include the following:

- Staggered dismissals over time: this involves implementing a maximum of four individual dismissals for objective reasons within a 120-day period in the same business unit. This approach must be based on genuine organisational and operational needs that justify the timing of each termination. Otherwise, the initiative may be seen as an attempt to circumvent the law, leading to legal challenges. It must also be pointed out that dismissals for subjective reasons (e.g. a significant breach of contractual obligations or negligent performance of duties) or for just cause are not counted in the threshold.

- Voluntary redundancy schemes: the use of voluntary exit schemes is a less contentious and more flexible alternative to unilateral dismissals. Employers may offer selected employees an incentive package in exchange for their consent to a mutual termination of the employment contract. Care must be taken however where employees refuse, as it could be argued that their subsequent dismissal is retaliatory and for this reason null and void.

- Early retirement plans: in line with tools such as the so-called "isopensione", employers may

encourage older employees nearing retirement age to voluntarily leave the workforce. This is achieved through company-level agreements providing financial incentives or access to supplementary pension benefits.

- Reduction of working hours: as an alternative to termination, employers may consider a reduction in working hours, either temporarily or permanently, accompanied by a corresponding reduction in salary. This measure can be implemented through union agreements and may be supported by public income-support instruments (such as the so called CIGO, CIGS, FIS, or solidarity contracts).

Each of the above measures must be assessed on a case-by-case basis, in compliance with national legislation and, where applicable, collective bargaining agreements.

3. Information requirements

Before proceeding with collective dismissals, the employer must present a written notification to the works council and trade unions. If there is no works council within the organisation, the notification must be sent to the most representative confederations at national level. The notification should include:

- the reasons for the redundancies;
- the technical, organisational and productive reasons why it is impossible to avoid the dismissals or to reduce the number of redundancies;
- the number, the professional level, the duties and location of all the employees (i.e. both redundant and unaffected);
- the timing for the planned redundancies;
- the measures that will be adopted in order to deal with the social impact of the redundancies;
- the method of calculating the additional sums to which the employees are entitled to, other than those already provided by law or national collective agreements.

4. Consultation process

The consultation procedure is strictly regulated by law.

Within seven days of the date the legally mandated written information is received from the employer, the works council or trade unions may request a joint examination between the parties. This process is aimed at examining the reasons for the proposed redundancies, finding alternative solutions that could reduce the number of dismissals (e.g. assigning different functions to employees) and discussing the employer's proposals for mitigating the social impact of the redundancies.

The proposed criteria for selecting the employees to be dismissed will also be negotiated. Italian law imposes mandatory selection criteria, which includes family circumstances, length of service and technical, production and organisational requirements. These selection criteria will be applied if no alternatives are agreed with the unions and the works councils.

If ten or more redundancies are proposed, the consultation procedure with the works councils and the trade unions must be completed within 45 days from the date the employer gave written notification of its intentions. If fewer than ten redundancies are proposed, this period is reduced to 23 days.

After this first phase of consultation with the works councils and the trade unions, the employer must send notification to the relevant employment office, either recording the agreement reached or recording that the parties have failed to reach agreement. Then, if the parties have not reached agreement, the public authorities will summon the parties for another examination, which can last up to 30 days, or 15 if there are fewer than ten redundancies. Although there is no obligation to reach an agreement, the employer cannot terminate the employment contracts until the end of the consultation period. After this point, the dismissals can be served in compliance with the law, even if an agreement with the unions and the works councils is not reached.

Within seven days of the dismissals, the employer must send the regional employment office, the regional commission of employment and the trade unions, certain details, namely the names, place of residence, jobs, working level, age and family situation of the employees selected for dismissal. This communication must also contain a detailed indication of how the legal, mandatory selection criteria were applied.

Overall, the dismissals can only be carried out at the end of the procedure, which will be after approximately 75 days from the start of the process, or after an agreement with the works councils and the unions is reached during the process, if earlier.

The dismissals can be served within a term of 120 days from the end of the procedure. The agreement with the works councils and the unions, if any, can provide a different term.

In addition to the procedure described above, if an employer with at least 250 employees intends to proceed with the closure of a plant/branch/local office (with definitive termination of the related activity) and this will involve the dismissal of at least 50 employees, the following further information and consultation procedure with unions and authorities must be followed.

At least 180 days before the start of the information and consultation procedure, the employer must provide notification of its intention to proceed with the closure to the works councils and trade unions, the regions involved, and the labour authorities (the Ministries of Labour and of Economic Development and the National Agency for Active Labour Market Policies). The notification must set out the economic, financial, technical or organisational reasons for the closure, the expected timing, and the number and type of

redundancies.

Within 60 days after this notification, a plan to limit the employment and economic impact of the planned closure and redundancies must be drawn up by the employer and sent to the aforementioned parties. The plan cannot have a duration longer than 12 months, and it must contain:

- the actions that will be taken to safeguard employment levels and to manage the potential redundancies through the use of furlough, relocation and incentives to leave;
- the actions that will be taken to promote re-employment or self-employment of the employees, such as training and professional retraining;
- the prospect of avoiding the closure and continuing the business (including the possibility of selling the business to the employees or cooperatives set up by them);
- any projects that might be taken for the reconversion of the production, even for socio-cultural purposes;
- the times and methods for implementing the above-mentioned actions.

After having received this plan, the parties have 120 days to discuss it. This phase can be concluded with the achievement of an agreement or not. Any dismissal served in breach of this procedure or before its completion is null and void. Failure to present a plan to the unions, reach agreement on the plan, or comply with the agreed plan may entail economic sanctions on the employer. If an agreement is not reached regarding the closure during the procedure described, the information and consultation procedure described above at the beginning of this section must be followed before any dismissal.

5. What if you fail to comply?

Different sanctions apply for dismissals served in breach of the information and consultation requirements described above, depending on the hiring date of the employees concerned.

For employees hired before 7 March 2015, the following sanctions apply:

- If the employer fails to comply with the information and consultation requirements, the dismissal will be declared unfair and, as a result, the employer must pay each affected employee a compensation payment equal to between 12 and 24 months' salary. The specific amount of the compensation will be determined by a judge, who will consider:
    - the length of service;
    - the number of people employed by the organisation;
    - the organisation's size and structure;
    - the conduct and situation of each of the parties;
    - the initiative taken by the employee to find alternative employment.
- If the employer fails to comply with the selection criteria, the judge may order that the employee be reinstated in their job and be paid compensation of up to 12 months' salary.

For employees hired on or after 7 March 2015, the following sanctions will apply:

- If the employer fails to comply with the information and consultation requirements, or with the selection criteria, the court will declare the termination of the employment contract at the date of the dismissal and will order the employer to pay each affected employee compensation (not subject to social security contributions) equal to between a minimum of six and a maximum of 36 months' salary. According to a decision of the Constitutional Court, judges should determine the amount due as indemnity (within the limits described above), taking into account a number of factors such as length of service, the number of employees and size of the company and the behaviour and status of the parties.

With regard to executives, if the employer fails to comply with the information and consultation requirements or with the set selection criteria, the executives will be awarded compensation of between 12 and 24 months' salary, depending on the nature and seriousness of the breach. Collective bargaining agreements can provide for different amounts than those provided by law.

If the dismissed employees were not notified in writing, the court can order their reinstatement, as well as payment of compensation equal to the salary that would have been earned by the employee between the dismissal date and the date of reinstatement, with a minimum of five months' salary. This applies whether the dismissed employees were hired before or after 7 March 2015, and whether they were an executive or other category of employees.

6. Selection order and protections against dismissal

In a collective redundancy, subject to the special information and consultation procedure with the unions, the law requires the employer to apply the following mandatory criteria to select the employees to be dismissed:

- length of service ('last in, first out');
- family burden in terms of the number of dependants for tax purposes; and
- organisational reasons connected with the procedure.

The law requires these criteria to be applied cumulatively. The application of additional criteria is possible, although not mandatory, but may only be done if these criteria are objective and their use is agreed with the works councils and the trade unions during

the information and consultation procedure.

There are no directly applicable legal requirements as to the order of dismissal to be used for individual economic dismissals, although the courts have used the mandatory selection criteria set out above for collective dismissals. Italian case law also provides for a general requirement to offer employees any other available position in the organisation, including at a lower level, before making them redundant (so called repêchage). Such obligation does not apply to the executives.

It is also important to note that a dismissal will be declared null and void if it is deemed to be based on discriminatory reasons (e.g. political opinions, religion, membership of a trade union, race, gender or nationality) or occurs during, or is based on, other protected circumstances including illness, pregnancy, maternity or paternity leave or marriage etc. A court will order the employer to reinstate the employee and pay compensation equal to salary accrued from the date of dismissal until the date of reinstatement, plus social security contributions. The compensation cannot be less than five months' salary.

7. Are additional payments required?

During the collective dismissal procedure, the employer must pay the employees their full salary and social security contributions.

Upon the termination of the employment contracts, the employer must make the following mandatory payments to the dismissed employees:

- payment in lieu of the notice period if employees do not work during their notice;
- a severance payment ('Trattamento di fine rapporto' or 'TFR'), which is a sum already accrued in the organisation's balance sheet based on the employee's annual remuneration divided by 13.5 (equal to 7.4% of the total salary including bonuses);
- a pro rata portion of the supplementary monthly instalments due up to the date of termination;
- payment in lieu of unused holiday and leave time.

The employer must also pay, for each employee, a contribution to the unemployment indemnity known as 'Naspi'. The amount is determined by the National Social Security Institute every year. This amount must be multiplied by three if no agreement is reached with the unions during the information and consultation procedure.

8. Reputational issues

Generally speaking, there is not a significant risk of reputational damage if all the legal and contractual obligations are properly complied with. However, the employer must take into account that in cases of mass redundancy it will need to promptly manage the media, because once the information and consultation procedure starts the news of the dismissals will quickly become public.

9. Dos and don'ts

Do collect and organise the information and data needed to draft the first notice letter to be sent to the works councils and unions, which starts the collective redundancy procedure.

Do analyse the list of the employees to be dismissed and draft a spreadsheet with the cost of the collective redundancy procedure and possible severance payments, which can be used to negotiate with the unions during the information and consultation procedure.

Do prepare backup plan (emergency plan and contingency plan).

Do prepare a press release.

Do carefully check and comply with all the information and consultation procedures provided for in the collective bargaining agreement.

Don't forget that the better the first communication to the unions is, the lower the litigation risks will be in the future.

Japan

Yuka Kamio

yuka.kamio@amt-law.com

1. Consultation requirements

There is no particular statutory requirement in Japan to conduct consultations prior to multiple dismissals related to restructuring. However, the employer must consult with a labour union if required by its collective agreement with the union. Furthermore, it is necessary for the employer to satisfy the 'just cause' requirement for valid dismissals in general and the following four criteria for valid redundancy dismissals, which are strictly examined in court:

- serious necessity of workforce reduction;
- reasonable effort to avoid dismissals;
- reasonable criteria for selection; and
- fair and appropriate procedures.

To satisfy the 'fair and appropriate procedures' requirement, it is essential for the employer to sincerely consult with employees, their representatives or a labour union (if any) before proceeding with redundancy dismissals.

2. Ways to remain below the redundancy thresholds

There are no redundancy thresholds that apply in Japan; therefore, this is not applicable.

3. Information requirements

There is no specific information required by law in Japan. However, providing a reasonable explanation to affected employees is necessary for a valid redundancy dismissal in light of the 'fair and appropriate procedures' criterion that applies.

Furthermore, if an employer intends to dismiss 30 or more employees within a month, it must notify the local Public Employment Security Office of the planned mass dismissal and prepare a reemployment assistance plan. This should be certified by the Office to ensure that affected employees receive appropriate support in finding new employment.

4. Consultation process

There is no statutorily required legal process for consultations, although if a collective agreement with a labour union provides for such a process, it must be followed. The length of time consultations take depends on the situation and varies case by case; however, it typically takes at least one to three months.

5. What if you fail to comply?

If the employer fails to comply with the criteria for valid redundancy dismissals, and any employee dismissed in such manner challenges the validity of the dismissal in court, the court would find that the dismissal is null and void. The court would require the employer to reinstate the employment of, and provide back pay to, such employee.

6. Selection order and protections against dismissal

There is no statutory selection order. However, the employer must use a 'reasonable' standard of selection to satisfy the third criterion for a valid redundancy dismissal. In other words, the selection of employees for redundancy must be conducted in a fair, reasonable, and non-discriminatory manner.

In addition, certain categories of employees enjoy special protections against dismissal. For example, dismissal is prohibited during, and for 30 days following, maternity leave. Employees on childcare or family care leave are also protected from dismissal, unless the employer can demonstrate that the dismissal was not due to the employee's taking of such leave. Moreover, dismissal of employees undergoing medical treatment for work-related injuries or illnesses is restricted. These statutory protections must be carefully considered when planning any reduction in workforce.

7. Are additional payments required?

As a procedural requirement for dismissals (whether or not related to redundancy), the employer must give employees at least 30 days' prior notice or payment in lieu thereof.

Aside from this procedural requirement, the employer must satisfy the 'four criteria' for valid redundancy dismissals. Since it is extremely difficult for employers to validly dismiss employees for redundancy, and dismissals inevitably entail litigation risks, employers generally offer employees a severance package, inviting them to agree to resignation based on mutual agreement. There are no statutory rules or standards on the amount of pay to offer in a severance package and it purely depends on the negotiation between the parties. Having offered a reasonable amount of severance pay to employees for resignation based on mutual agreement may be one of the factors that is considered in satisfying the 'reasonable effort to avoid dismissals' criterion for a valid redundancy dismissal.

8. Reputational issues

It is rare in Japan for mass dismissals to be used for restructuring, due to reputational risk. If a mass dismissal occurs at a well-known company, it is highly likely to be reported in the media. Furthermore, if the dismissed employees file a lawsuit, the proceedings will take place in a public forum, and the judgment will also be publicly accessible. To prevent such reputational risks, it is common practice to offer a voluntary resignation package, inviting certain employees to resign by mutual agreement in exchange for a severance payment.

9. Dos and don'ts

Do gather as much evidence as possible to satisfy the four criteria for valid redundancy dismissals. In practice, it is common for employers to offer a severance package and seek an amicable resignation rather than proceeding with dismissal. However, even in such cases, the extent to which the employer is able to demonstrate grounds for a valid dismissal significantly affects whether employees are willing to accept the resignation offer and what amount of severance will be agreed upon. If the company is in a situation where it could justify a valid dismissal, it is more likely that an agreement can be reached for a smaller package. Therefore, it is essential for the employer to be well prepared in advance and to gather as much evidence as possible to satisfy the four criteria for redundancy dismissal.

Do exhaust all possible measures to avoid dismissals. To meet the "reasonable effort to avoid dismissals" criterion, the employer must take all practically available measures before resorting to dismissal, which should be considered only as a last resort. Specifically, before proceeding with dismissals, the employer should seriously consider alternatives such as transferring employees to other departments, secondments to affiliated companies, or implementing legally permissible cost reduction measures such as bonus cuts. If applicable, the employer should also explore utilising the various financial support measures the Japanese government has implemented before resorting to a workforce reduction.

Do comply with the additional notification requirements that apply regarding the local Public Employment Security Office when 30 or more dismissals are planned within a one month period.

Mexico

Jorge de Presno

jorgedepresno@basham.com.mx

David Puente Tostado

dpuente@basham.com.mx

1. Consultation requirements

In Mexico, there is no legal requirement to consult with employee representatives before undertaking multiple dismissals. Employment law applies in the same way regardless of how many employees are to be dismissed.

If the employer believes the business is clearly experiencing serious, unaffordable costs, it may request the intervention of the competent Labour Court in writing giving: (i) its reasons, (ii) evidence of the situation, and (iii) the remedies requested. The Labour Court will assess whether to approve any related dismissals, but particularly, reduced severance. Please bear in mind that a notice to intent to strike (which can result from decisions to initiate collective dismissals) will suspend the formal collective dismissal process, hence, this formal process is often viewed as not being practical.

In cases of unionised employees, and where termination has resulted from serious and unaffordable costs to the business, it is recommended that the employer notifies the trade union in advance so that it can then inform the unionised employees.

2. Ways to remain below the redundancy thresholds

There are no redundancy thresholds that apply under Mexican law.

That notwithstanding, and prior to initiating the formal collective dismissal process under Federal Labour Law which is complex, time-consuming and in most of the cases, unsuccessful, employers will often consider and adopt various alternative measures when seeking to reduce its workforce. These include implementing staggered terminations over time rather than conducting them simultaneously, or offering voluntary separation schemes (e.g. to employees who already meet the requirements for retirement). These alternatives help to reduce the number of employees impacted by collective redundancies resulting from economic factors.

3. Information requirements

If the employer believes it is clear that the business is experiencing serious, unaffordable costs, it may request the intervention of the competent Labour Court in writing, giving its reasons. The labour authority will then assess whether to approve any related dismissals. In practice however, this is not the typical way an employer elects to dismiss employees, often following the alternative measures set out under 'Ways to remain below the redundancy threhsolds' above.

If the employer notifies the trade unions about the proposed dismissals of unionised employees (as it is good practice for it to do), the unions must then notify the affected employees.

4. Consultation process

There is no formal legal process, because there is no obligation to perform consultations in Mexico. However, it is good practice for the employer to first explain the situation to the relevant trade union, and then to carry out any dismissals via the alternative means described above.

Jimena Olivera

jolivera@basham.com.mx

Valentina Ruiz Ruiz

vruiz@basham.com.mx

5. What if you fail to comply?

Where an employer initiates the formal process with the Labour Court and fails to provide sufficient evidence of the situation, the Labour Court will find no grounds for a modified severance and will not allow the terminations. If the employer dismisses employees without approval, the Labour Court will consider the dismissal of the employees to be without cause and the employer will be liable to pay a full severance package. This comprises of the following:

- A lump sum payment of three months' daily integrated salary (e.g. base salary plus regular benefits and compensation received);
- 20 days of daily integrated salary per each year of service;
- A seniority premium of 12 days' salary for each year of service (capped to two times the minimum daily wage in Mexico); and
- Any accrued benefits due to the affected employees.

The only exception to this is if the redundancy is caused by the implementation of new equipment and machinery. This entitles employees to 120 days of integrated salary rather than 90 days (in addition to the other payments described above).

6. Selection order and protections against dismissal

Although the Mexican Federal Labour Law refers to preferential rights of employees, in practice, employers will select employees for dismissal based on performance and length of service. Extreme care must be taken however when considering the dismissal of a union representative or union commissioner before any other employee as this can raise legal and procedural issues.

There is no special protection for employees against dismissal on particular grounds, however, employees on statutory leave (such as sick, maternity or paternity leave) can only be dismissed during their leave period with their consent. If an employer proceeds to terminate where the employee is on sick leave, even though the employment relationship will end, the employer will not be able to withdraw the employee from the Mexican Social Security Institute (MSSI) while they remain on certified sick leave.

7. Are additional payments required?

No, for collective dismissals employees are entitled to the same statutory severance package as if the termination is to one individual. The contents of a full severance package are set out under 'What if you fail to comply?' above.

8. Reputational issues

Employers in Mexico are legally allowed to terminate any employee or group of employees at any time by paying full statutory severance. No information or consultation requirements exist provided full severance is paid. However, an employer's reputation may indeed be harmed if employees are not treated fairly and paid full severance as provided by law.

9. Dos and don'ts

Do consider alternatives such as moving employees to different roles or relocating them to another company of the same corporate group.

Do pay full severance if the decision is made to reduce the workforce as a result of the restructuring.

Do document terminations in writing and have them ratified by the labour authority or execute them privately in the presence of a notary public.

Do inform the union on the upcoming termination, so they can communicate

it to the affected employees.
Do properly plan the logistics of the termination process to avoid pitfalls.

Do verify whether the corresponding collective bargaining agreement provides for enhanced severance in the event of restructurings, if there are unionised employees.

Don't request employees to resign voluntarily (unless this is part of a voluntary separation scheme) or attempt to negotiate a lower severance payment.

Don't terminate employees who are on sick, maternity or paternity leave as certified by the MSSI. The leave must be completed prior to terminating the employee.

Don´t terminate union representative employees if there is not a solid reason why they should be terminated before any other employee.

The Netherlands

Joost Verlaan

j.verlaan@bd-advocaten.nl

Helene Pruymboom

h.pruymboom@bd-advocaten.nl

1. Consultation requirements

An employer that intends to dismiss (i) at least 20 employees, (ii) within the same geographical area (i.e. the same UWV work area) and (iii) within a timeframe of three months, triggers a collective dismissal. As a consequence, it must notify the UWV (the Uitvoeringsinstituut Werknemers Verzekeringen, an autonomous administrative authority commissioned by the Ministry of Social Affairs and Employment).

In addition, the employer must report any intention of such collective dismissal in a timely manner and in writing to the relevant trade union(s), that is, the trade union or unions that represent the employees. The unions must be informed of the proposed redundancies and must be invited to a meeting with the employer. The employer must discuss with them not only the need to restructure the business but, specifically, the consequences for the employees.

If the employer has established a works council, the employer must in principle also ask the works council for advice in writing about the intended collective dismissal. The employer must request the advice of the works council in a timely manner. This means the works council must be given the opportunity to influence the decision-making of the employer with its advice. In practice, the request for advice is submitted to the works council at the same time as the relevant notifications are made, or shortly before or after that.

The obligation to ask the works council for advice may also apply in cases of an intended restructuring leading to the redundancies of fewer than 20 employees. The works council must be consulted on any intended restructuring that can be regarded as an important change to the organisation. Depending on the specific circumstances, this obligation may arise when only a limited number of roles, or one role, is affected by the intended decision.

In the absence of a works council, either the employee representative body must be consulted or, in the absence thereof, a 'town hall' meeting with all employees must be held.

2. Ways to remain below the redundancy thresholds

The notification for a collective dismissal can be avoided by spreading out the dismissals over a longer period of time (more than three months between each dismissal tranche or individual dismissal due to business economic reasons). The UWV must be notified when the employer intends to dismiss at least 20 employees within a timeframe of three months. If the dismissals take place in several tranches but occur within a period of three months, all tranches are considered part of the collective dismissal, and the employer must comply with the statutory obligations in relation to all of those tranches. For each tranche, it must be assessed whether the dismissals fall within the same three-month period as any other tranche.

'Dismissals' for the purposes of the threshold include all redundancies based on business economic grounds. This encompasses gaining a dismissal permit from the UWV, termination with mutual consent (due to business economic grounds) via a settlement agreement, and voluntary redundancy schemes. Dismissals due to personal

reasons (e.g. poor performance or misconduct) are not included in the threshold.

Another way to avoid the notification is to spread out the dismissals geographically. This would only be possible in cases where there are business establishments/locations in several UWV geographical areas. Spreading the dismissals geographically can help ensure that the number of dismissals remains below the threshold of 20 in any one UWV area.

However, while the above may provide a route to avoiding certain collective dismissal related obligations, the obligation to ask the works council for advice may, in any event, apply in cases of an intended restructuring leading to the redundancies of fewer than 20 employees. The consequences for not involving the works council are outlined under 'What if you fail to comply?' below.

3. Information requirements

The UWV must be notified of the intended dismissals at the same time as the trade unions.
The UWV and the trade unions must be provided with the following information:

- the reasons for and scope of any reduction in activity;
- an analysis of alternative action considered (e.g. partial closure or closure of other plants) and this analysis should result in a well-reasoned conclusion that no realistic alternatives are available;
- an analysis of the purpose of the reorganisation, supported by reports from external consultants or auditors if appropriate, and the economic and employment consequences;
- whether a works council exists, whether it has an advisory right and, if so, when it will be consulted;
- the number of employees to be made redundant, divided into categories of position, age and gender;
- the average number of employees usually employed;
- the anticipated date of termination;
- the criteria by which the employees are selected for dismissal;
- any possible redundancy arrangements.

The request for advice submitted to the works council must include at least the following information:

- details of the intended decision;
- the economic or business-related reasons behind the decision, including possible alternative courses of action;
- the expected consequences for the employees; and
- an overview of provisions for the employees whose interests will be affected by the decision.

4. Consultation process

Where the employer is required to request the works council for advice and consult with the employee trade unions, it is best practice to negotiate a possible social plan with the employee trade unions. A social plan is generally a document containing provisions aimed at mitigating the consequences of the dismissals, for example, severance payments, assistance in finding new jobs, and reimbursement of legal fees.

There is no statutory consultation period. The length of the consultation period strongly depends on the reasons for and scope of the intended decision. On average the consultation can take one to three months.

If there is no works council (or other employee representative body), the employer only has to consult with the employee trade unions, which in practice mainly focuses on the contents of a social plan.

5. What if you fail to comply?

If the employer fails to provide the information it is required to give to the UWV, the UWV will most likely not issue permission for the dismissals. Further, if the employer fails to properly notify the UWV and trade unions, this will render void any settlement agreement entered into or any notice of termination issued without the permission of the UWV. The employee must make such a claim before the court within two months from the date that they became aware (or could have become aware) of the fault on the part of the employer but at the latest within six months following the notice or agreement to the settlement. The employee can either demand that the termination be declared null and void (and to be reinstated) or claim additional damages.

The consequences of not consulting the works council on the intended decision is that the UWV will consider the request for permission to give notice to be premature and reject the request for this reason. The works council may also decide to bring a claim in court to enforce compliance, during which period the implementation of the decision is to be put on hold.

6. Selection order and protections against dismissal

In the event of an individual or collective dismissal based on economic grounds, the employer cannot randomly select employees for redundancy (unless there is only one person with the role). The selection must be done by applying the 'principle of reflection'. Pursuant to this principle, all employees with interchangeable jobs will be divided into age groups.

Interchangeable job roles are those that are equivalent with respect to duties, required knowledge, competence and experience. They must also be similar with respect to

the level of the position and salary. It is important that the job roles be compared, not the employees themselves.

The division is into five age groups: 15 to 24, 25 to 34, 35 to 44, 45 to 54, 55 plus. The principle of reflection then uses a formula that selects in which age category an employee (or a percentage of employees) is to be made redundant. If two or more dismissals fall in the same group, the 'last in first out' (LIFO) principle applies. This system ensures that before and after the dismissals, the age balance in the workforce will remain the same. In some circumstances this method will not give a definite outcome, for example if there are two or more age groups within which employees qualify for dismissal. In that case, the employees from these age groups will be taken together for applying LIFO. If two or more employees within one age group have exactly the same length of employment, only then is the employer given discretion to decide the selection order.

Under Dutch employment law, employees are protected against dismissal during:

- pregnancy;
- maternity leave (up to six weeks after the employee returns to work);
- the first two years of illness; or
- military service.

In addition, an employer cannot (in principle) give notice of termination due to:

- trade union membership or activities;
- past or present membership of (or current candidacy for) the works council or another employee representative body;
- parental or care leave;
- political leave (i.e. leave to attend Parliament or local council meetings where the employee has been elected a member of those bodies);
- a transfer of the business; or
- refusal to work on Sundays, unless otherwise agreed.

These prohibitions on dismissal are always applicable, including in collective dismissal situations.

7. Are additional payments required?

Employees are entitled to the same statutory transition payment in a collective dismissal as in an individual one.

8. Reputational issues

In general, a workforce reduction will always have some negative impact on an employer's reputation. However, given that many organisations are being compelled to reduce headcount due to external factors (such as global economic headwinds), it is unlikely that such restructurings will result in significant reputational damage.

9. Dos and don'ts

Do consider the long-term effects of a restructuring and contemplate alternative measures due to the tight labour market.

Do prepare easily understood information for affected people (e.g. reasons, timing, packages) and think about how to communicate.

Do prepare very carefully where selection is an issue (the 'principle of reflection').

Do investigate whether the employee could be re-employed within the company or the group.

Don't ignore the need to consult the works council in the case of a restructuring.

Don't ignore the need to consult with trade unions and/or employee bodies in the case of a collective dismissal (where 20 or more employees are impacted).

Don't forget to add some financial incentives to the package to make it attractive for the impacted employees.

Norway

Claude A. Lenth

cal@hjort.no

Sylvia Helene Lind

sylin@hjort.no

1. Consultation requirements

The employer must consult collectively when several dismissals on grounds of redundancy are considered. The consultation must cover all affected employees, including those who may be affected by the dismissal of others. The consultation takes place with union representatives if trade unions exist in the organisation or with employee representatives elected for this purpose.

The requirement is triggered by ten or more proposed dismissals at one establishment within a period of 30 days, when the dismissals are not made for reasons related to the individual employee (such as a restructuring, as opposed to poor work performance or misconduct). Other forms of termination of employment not related to the individual employee, are included in the calculation provided that at least five employees are dismissed. If the collective dismissals will affect fixed-term employees, they are included in the calculation. Fixed-term contracts that are coming to an end, but not as a result of the collective dismissals, are not included in the threshold calculations. An 'establishment' usually covers one geographical workplace, and not necessarily the entire establishment, provided that the geographical unit has a certain permanent and stable character.

Separately, the employer must consult individually with each employee who is selected for redundancy in order for the dismissal to be fair. This applies to all redundancy dismissals, even where fewer than ten dismissals are proposed.

There is also a separate information and consultation requirement for undertakings that regularly employ 50 or more employees. Such employers must provide information concerning important issues relating to the employees' working conditions and discuss these with the employees' elected representatives. Although not strictly related to collective dismissals, these will normally be an issue of concern for the employees and therefore trigger this separate requirement.

This obligation to consult and inform also applies between corporate groups that regularly employ 50 or more employees in total, assuming they meet the relevant definition. For corporate groups meeting the definition, Norwegian law requires that frameworks for collaboration, information and discussion between the companies in the group and the employees in the group should already be in place.

2. Ways to remain below the redundancy thresholds

Employers seeking to remain below the collective redundancy thresholds may consider alternative measures. One example is to allow the workforce to reduce naturally through retirements, resignations, or the expiration of temporary contracts, rather than through dismissals initiated by the employer. Another example is to reassign employees to other roles or departments within the organisation to avoid dismissals, and engage in early and genuine consultations with employee representatives to explore alternatives to redundancies, such as retraining, or other cost-saving measures.

Other forms of termination of

employment contracts initiated by the employer, apart from pure dismissals, must also be included in the collective redundancy threshold calculation if at least five employees are dismissed. This includes terminations resulting from agreements on early retirement or offers of severance packages. The purpose of this is to prevent the employer from circumventing the legal rules on collective redundancies.

Staggered dismissals can, in principle, be used to avoid reaching the threshold within the statutory timeframe. However, this might prove ineffective and will be time consuming, as all dismissals (and other qualifying terminations) that occur within any continuous 30-day period must be counted together, regardless of whether they occur before or after a particular individual dismissal, in line with EU case law. This means that if the total number of dismissals within any such 30-day window reaches the threshold (i.e. at least 10 employees), the collective redundancy obligations are triggered—even if the dismissals are staggered over time.

Employers should avoid alternative measures where the purpose is to attempt to circumvent the duties relating to collective redundancy.

3. Information requirements

All relevant information must be provided to the trade union or elected representatives. The following information must be given in writing:

- the grounds for any redundancies;
- the number of employees who may be made redundant;
- the categories of workers to which the relevant employees belong;
- the number of employees normally employed;
- the groups of employees normally employed;
- the period during which the redundancies may be effected;
- proposed criteria for selection of those who may be made redundant;
- proposed criteria for calculation of any extraordinary severance pay.

This information must be given at the earliest opportunity or, at the latest when the employer calls a consultation meeting. Corresponding notification must also be given to the Labour and Welfare Service by the employer.

Most collective agreements require employers to provide additional information, including the economic basis for the redundancies.

4. Consultation process

The legal minimum requirement is for the consultation to cover:

- ways of avoiding the dismissals;
- reducing the number of employees to be dismissed;
- mitigating the consequences of the dismissals;
- possible social welfare measures aimed at redeploying or retraining workers made redundant;
- any possibility of further operation (i.e. if all or part of the business is closing down), including the possibility of the activities being taken over by the employees.

Consultation must take place 'with a view to reaching agreement'. This means that the parties do not have to agree, but the consultation process must be genuine and the employer must be open to suggestions from the representatives. In practice, employers will usually consult on all of the issues covered by the initial list of information they provide to the representatives. It is also good practice to consult on the proposed method of selecting employees to be dismissed as failure to do so could mean that redundancy dismissals are deemed unfair.

The consultation must take place as early as possible and before any final decision is taken. Collective redundancies must not come into effect earlier than 30 days after the Labour and Welfare Service has been notified by the employer.

In practice, consultation will normally last for 30 to 45 days, although it can end earlier if the employer and representatives agree. Consultation about avoiding the dismissals and the selection methods to be used will often take place first, so that the employer can start the selection process while consultation continues on other issues.

5. What if you fail to comply?

The consequences of failure to comply with the information and consultation requirements are the same for breach of one or both requirements. Failure to comply can mean that redundancy dismissals are deemed unfair or that the redundancies will come into effect at a later date.

6. Selection order and protections against dismissal

In the event of dismissal for economic reasons, the employer cannot randomly select employees. The employer must apply selection criteria in respect of all employees in the organisation. These criteria must be objectively justified and must include such factors as seniority, qualification and special social conditions.

Employers must also take care to ensure compliance with the special protections against dismissal that apply. In particular, employers must be able to show that the reasons for the redundancy dismissals are not, within a certain timeframe, based on the fact an employee is:

- wholly or partly absent from work owing to accident or illness;
- pregnant or on birth-related or parental leave; or
- on leave of absence in connection with military service

or other similar national service.

Furthermore, an employee who has leave of absence due to pregnancy, maternity leave or parental leave for up to one year must not be given a notice of dismissal that becomes effective during the period of absence if the employer is aware of the reasons or the employee notifies the employer without undue delay. If the employee is lawfully dismissed during this period, the notice is valid but the notice period must be extended by the remainder of the leave period.

7. Are additional payments required?

No additional payments are necessary. It is not uncommon to offer severance agreements, but this is not mandatory unless otherwise agreed in either the individual employment contract or a collective agreement.

8. Reputational issues

A key jurisdiction-specific nuance when it comes to reputational risk and restructuring in Norway is the strength and influence of trade unions, with a significant number of employees being unionised in the country. When it comes to collective redundancies, trade unions usually play an active role, and they are not afraid to challenge employers who deviate from the formal process. They may also bring matters to the attention of the media to garner public sympathy. This can then be used as a bargaining tool in subsequent negotiations.

Norwegian culture also places a high value on social responsibility and fair treatment of employees. Employers not adhering to this can attract criticism from unions, employee representatives, and the public (including certain political parties).

In individual negotiations, and to strengthen their bargaining position, it is also common for employees to refer to reputational damage as a risk factor in dismissal cases.

9. Dos and don'ts

Do conduct early, genuine consultations with employee representatives and, where applicable, unions.

Do provide thorough and transparent information about the reasons for any restructuring, the selection criteria for redundancies, and the potential consequences for employees.

Do document the entire process to ensure it is objective, fair, and reviewable by courts if challenged.

Don't fail to consult or inform employee representatives in a timely and meaningful way.

Don't use subjective, discriminatory, or non-transparent criteria for selection.

Don't attempt to circumvent collective redundancy obligations, or initiate inadequate or flawed procedures that are not suitably documented.

Singapore

Desmond Wee

desmond.wee@rajahtann.com

1. Consultation requirements

There is no statutory requirement under Singaporean law to hold consultations or hearings with employees, employee representatives or trade unions in connection with a situation of redundancy, where multiple dismissals are proposed.

An employer would only be legally obliged to hold such consultations if it is required by the relevant employment contracts or any collective agreement in place with a trade union (to which the affected employees belong).

Aside from the above, there is the Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (the 'Advisory') that encourages early communications by employers to their employees to "allow them to be mentally prepared for the eventuality". These early communications should cover the following:

- the organisation's efforts to manage business challenges, and the business situation faced by the organisation resulting in the need for a retrenchment exercise;
- how the retrenchment exercise will be carried out;
- the factors that will be considered;
- the assistance that will be offered to those affected.

Whilst the Advisory is not legally binding, all employers are strongly encouraged to adhere to the recommendations which have been issued by the Tripartite Partners (comprising the Ministry of Manpower, the National Trades Union Congress and the Singapore National Employers Federation)

2. Ways to remain below the redundancy thresholds

Whilst there are no prescribed redundancy thresholds under Singaporean law, the Advisory recommends that employers should consider certain alternatives to dismissing employees for redundancy where possible (although these do not need to be implemented in a specific order or sequence and will be dependent on each employer's situation). These include:

- Making adjustments to work arrangements without wage cuts (e.g. the redeployment of employees to alternative areas of work within the organisation, the redeployment of employees to other entities, or the introduction of flexible work schedules).
- Making adjustments to work arrangements with wage cuts (e.g. allowing part time work, job sharing arrangements, shorter work weeks or initiating temporary lay offs).
- Making direct adjustments to employee wages.
- Permitting the use of 'no-pay leave' (a form of unpaid leave).

3. Information requirements

Employers with at least ten employees who have dismissed any employee for redundancy must notify the Ministry of Manpower. Every notification must be given to the Ministry of Manpower within five working days after the

employee is notified of his or her redundancy.

The information required to be provided to the Ministry of Manpower regarding the dismissals includes, among other things:

- the name of the employer and its unique entity number or identification number;
- the name of the union (if the company is unionised), and whether the union was consulted;
- the number of dismissed employees who are the subject of the report and the total number of people employed by the employer on the date of submission of the report, including a breakdown of the numbers of citizens of Singapore, permanent residents and foreigners; and
- details of each dismissed employee, including but not limited to the following:
    - name;
    - whether they are a citizen of Singapore, a permanent resident of Singapore or a foreign national;
    - the date on which notice of dismissal was given to the employee and the effective date of the dismissal;
    - the severance benefits paid or to be paid to the employee and if no severance benefits were paid, the reasons for not doing so; and
    - the employment facilitation assistance provided or to be provided to the employee.

4. Consultation process

There is no statutory requirement under Singaporean law to hold consultations or hearings unless the employer is contractually bound to do so by the employment contracts or an applicable collective agreement.

However, the Advisory recommends that dismissals should be carried out in consultation with the relevant union or with the employees concerned (if the organisation is not unionised). The Advisory supplements the law on redundancy, and the Ministry of Manpower can take action against employers who do not comply with it.

5. What if you fail to comply?

Failure to comply with the mandatory notifications is a civil offence, for which administrative penalties can be imposed. In limited circumstances where the employer is contractually obliged to comply with consultation requirements under an employment contract or collective agreement, its failure to do so will be deemed a breach of contract.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Singaporean law.

Nevertheless, the Advisory should be considered when making employees redundant, including the amount of compensation, communications and other support for employees. While the Advisory does not have the force of law, employers are well-advised to consider it carefully as the Ministry of Manpower has wide discretionary powers to take such administrative action as it deems fit (e.g. curtailing work pass privileges) against companies which refuse to comply with it. The Advisory does not give specific guidance on the issue of selection order, but states that selection should be done on a fair and objective basis. Employers must also exercise caution when it comes to the reasons for the dismissals. Singaporean law protects employees from dismissal on the grounds of pregnancy, trade union participation, age and for being called up for national service, amongst others. In addition, upon the coming into force of the Workplace Fairness Act sometime in 2026/2027, there will be specific categories of employees who will be protected against discrimination by employers.

7. Are additional payments required?

There is no legally mandated minimum amount of redundancy benefits in Singapore. If an employee's terms of employment specify that such benefits are payable, payment must be made in accordance with those terms. Employees with less than two years' service are not entitled to any redundancy benefit. However, the Advisory recommends that those with less than two years' service could be granted an ex-gratia payment.

If an employee's terms of employment do not specify that redundancy benefits are payable, an employer can voluntarily pay such benefits as determined by the employer or as negotiated.

8. Reputational issues

While there are no particular jurisdiction-specific reputational issues to consider, employers embarking on a restructuring exercise that will involve the dismissal of employees should pay particularly close attention to the guidelines and advisories issued by the Tripartite Partners (including the Advisory), whose role is to ensure that employers adhere to the best employment practices. In addition, any selection process should be based on objective criteria with primary considerations given to employee merit and preserving skills to ensure business sustainability. However, employers should also take a long-term view of their staffing needs, including the need to maintain a strong Singaporean core. Retrenchments should generally not result in a reduced proportion of local employees.

9. Dos and don'ts

Do ensure that you have a clear retrenchment policy.

Do ensure that your selection criteria are objective and fair.

Do adhere to the Advisory on responsible retrenchment.

Do not discriminate based on certain characteristics of the employees.

South Korea

Soojung Lee

slee@yulchon.com

Christopher Mandel

cmandel@yulchon.com

1. Consultation requirements

South Korean law requires a workforce consultation whenever an employer intends to dismiss an employee for business reasons. Dismissal for 'business reasons' refers, essentially, to dismissal due to redundancy rather than any individual fault of the employee. However, it does not include layoffs due to a complete dissolution of the business.

Even the dismissal of only one employee for business reasons requires a workforce consultation. In contrast, even multiple dismissals for non-business reasons do not trigger any workforce consultation requirement, regardless of the number, unless mandated by company policy or a collective bargaining agreement.

2. Ways to remain below the redundancy thresholds

Under South Korean law, the number of redundancies is only relevant because it can trigger certain routine reporting obligations. However, those reporting obligations are not very burdensome so there is little reason to try to stay below a certain numerical threshold by staggering dismissals or through other means.

The significant legal requirements for dismissal due to redundancy are the same regardless of the number of redundant employees.

3. Information requirements

An employer must provide notice of the company's intent to dismiss employees for business reasons at least 50 days in advance of the dismissals. The notice must be provided to the employee representative (a labour union representing a majority of the employees or, if there is no such union, a person or persons who represent a majority of the employees). The 50-day collective notice period can run concurrently with the 30-day individual notice period generally required to dismiss an individual employee.

The employer must also consult in good faith with the employee representative. This consultation must cover the employer's efforts to avoid layoffs and the criteria for selecting redundant employees, both of which are mandatory legal requirements.

Separately, if a workforce reduction exceeds certain thresholds, the employer may be required to file a report with the authorities. This is a relatively simple administrative requirement and does not affect the validity of the dismissals. A requirement to file a report is triggered if layoffs are intended at the following thresholds within a one-month period:

- 10 or more employees, if the employer has 99 employees or fewer;
- 10% or more of the workforce, if the employer has 100 to 999 employees;
- 100 or more employees, if the employer has 1,000 or more employees.

Additionally, if downsizing (even voluntary) is intended and the above report is not filed, a separate report

Tae Eun Lee

telee@yulchon.com

may be required if the following thresholds are met within a one-month period:

- 30 or more employees, if the employer has fewer than 300 regular employees;
- 10% or more of the total number of employees, if the employer has 300 or more regular employees.

4. Consultation process

The law governing layoffs for business reasons requires that the employer:

- have an urgent business necessity for the layoffs;
- make every effort to avoid dismissals;
- apply fair and reasonable selection criteria; and
- provide at least 50 days' notice to an employee representative and consult with the representative regarding efforts to avoid layoffs and the selection criteria to be applied.

These requirements are extremely stringent and very difficult to satisfy, and therefore the best practice is to tackle the bulk of any downsizing through voluntary compensated exits. It is for this reason that any significant downsizing generally has to be achieved in South Korea through either:

- voluntary exits in return for extra compensation (i.e. a "voluntary separation program" or "VSP"); or
- if there is an urgent business necessity, a VSP plus layoffs as a backup plan to handle holdouts and induce acceptance of the VSP.

In fact, where an offer of an exit package has become such a major component of employers' efforts to avoid dismissals in South Korea, it is a de facto requirement before resorting to layoffs.

When layoffs are a part of the employer's strategy to downsize, extensive preparation is generally advisable before the notice is provided, and the actual amount of consultation may vary. The process from the notice to the dismissals will often take longer than the legally required 50-day notice period, and even three to six months is not uncommon. In addition to preparing for the legally required formal workforce consultation, the employer should take care to craft a communication plan for all affected employees regarding the need for the business layoffs.

5. What if you fail to comply?

If the employer fails to comply with the information or consultation requirements, there is a risk of the dismissals being deemed invalid. However, unlike the other requirements for business layoffs, consultation itself is not necessarily a fully decisive factor in judging the validity of the dismissals; a court will perform a comprehensive analysis, considering all of the required factors (urgent business necessity, efforts to avoid dismissal, fair and reasonable selection criteria, and the required consultation) in determining validity, and technical faults in the notice and consultation may be overlooked.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under South Korean law. However, the criteria used to select employees for business layoffs must be reasonable and fair. Courts have interpreted this condition to require employers to consider not only the employer's interests (e.g. favouring high-performing employees), but also the individual employees' interests (e.g. number of dependants).

In addition, certain employees are protected from dismissal even if the legal requirements are otherwise satisfied. These protected categories include employees on maternity leave,

and for 30 days after they return; employees on medical leave due to a work-related injury or illness, and for 30 days afterwards; and employees who are on childcare leave. However, a total closure of the business can justify lawfully terminating employees even in these specially protected circumstances. In general, the selection criteria are more likely to be deemed fair if the employee representative has agreed to them, and at the least there should be a good-faith consultation about them.

Employers must also exercise caution when it comes to the reasons for the dismissal. Employees are protected from dismissal for various prohibited grounds such as certain kinds of illegal discrimination or retaliation. For example, dismissal due to gender or age is unlawful, though retirement pursuant to a company's retirement age is not deemed age discrimination.

7. Are additional payments required?

No, unless mandated by company policy or a collective bargaining agreement. In collective redundancies, the same termination-related payments applicable to any termination of employment apply, particularly tenure-based statutory severance pay or benefits applicable to all employees who serve at least one year.

However, since the legal requirements to terminate an employee for business reasons are extremely challenging to satisfy, employers frequently separate from employees through an agreement to voluntarily resign in return for additional compensation, which can be very substantial.

8. Reputational issues

Downsizing in South Korea can be highly controversial. If the employer has a union, the union can be very resistant to downsizing and may have considerable power to oppose the organisation's plans, both legally and in practice. Even if there is no union, it is extremely easy to form a union in South Korea, and redundancies are a common triggering event for unionisation. A controversial restructuring can easily lead to labour strife, and corresponding legal disputes and complaints to the authorities. Well-known multinational corporations in particular may be subject to very critical media coverage, and even interest from the authorities.

9. Dos and don'ts

Do budget significant funding for exit packages, based on past practice and industry expectations. Remember that these packages will be on top of guaranteed, statutory severance benefits.

Don't assume that layoffs are possible. Evaluate at the outset whether layoffs can form part of the overall strategy to downsize. Careful advance planning is key to success.

Don't use coercive or discriminatory means to force acceptance of exit packages. Remember that employees may record meetings and discussions.

Sweden

Annika Aus

annika.aus@elmzell.se

1. Consultation requirements

Before an employer takes a decision about significant changes in activities (e.g. a redundancy dismissal), consultations must be initiated with trade unions representing the affected employees. Note that employees themselves do not have a legal right to consultations but only the trade unions as their representatives. If the employer is bound by a collective bargaining agreement ('CBA'), consultations must be initiated with the trade unions that are party to the CBA; employers not bound by a CBA must consult with all trade unions having members affected by the redundancy.

Consultation must take place in two steps:

- First, the parties must consult about the proposed or intended restructuring. During this phase the parties discuss issues including the financial and technical reasons for the intended restructuring, alternative measures and any consequences.
- Second, the employer must consult with the trade unions about which employees to dismiss, possible relocation and the 'seniority list' (i.e. the last-in first-out principle). Depending on the number of affected employees the consultations could be concluded in one or multiple sessions.

The obligation to consult does not have a threshold. This means the employer must consult with the relevant trade unions regardless of the number of employees who are at risk of redundancy.

The right of trade unions to be consulted does not grant them a right to declare a decision made by the employer void or otherwise prevent such decisions from taking effect. A restructuring or collective dismissal is never dependent on approval from the trade unions. The main purpose of the obligation to consult is for the employer to make a genuine effort to share important information with the trade unions and to take the organisations' views into consideration.

2. Ways to remain below the redundancy thresholds

Since there are no redundancy thresholds in Sweden, alternative measures to remain below these do not exist.

That said, and as mentioned under 'Selection order and protections against dismissal' below, an employer may, regardless of their size and number of employees, exempt three employees from the seniority list (i.e. the list of potential employees for redundancy sorted by length of service) whose work is of a particular importance for the continuation of the business. If an employer is bound by a CBA, there may also be further exemptions. An exemption can only be exercised by the employer once every three months.

Voluntary redundancy schemes may also be an option to avoid the formal redundancy procedure. An employer may, for example, offer a severance payment to an employee via a mutual termination agreement.

3. Information requirements

Swedish law provides that the employer must provide to the trade unions the following information:

- the reason for the proposed dismissals;
- the number of employees who will be affected by the redundancies and the employment categories in which they belong;
- the number of employees normally employed in the business and the employment categories in which they belong;
- the period of time during which the employer plans to carry out the dismissals;
- the method of calculating any compensation to be paid in connection with dismissals in addition to any compensation owed by law or collective bargaining agreements.

If at least five employees will be affected by the planned redundancy, the employer must give notice to the Swedish Public Employment Service by the following deadlines:

- if 5-25 employees are affected, at least two months before the first employee leaves the employment;
- if 26-100 employees are affected, at least four months before the first employee leaves the employment;
- if more than 100 employees are affected, at least six months before the first employee leaves the employment.

The notice must contain basic information about the planned redundancies, in particular the address of the establishment, contact details of the contact person at the employer, the reason for the planned redundancies, how many employees are expected to be made redundant, their job categories, and the date on which the first person affected will leave employment.

4. Consultation process

To initiate a consultation, the employer must make a written request to the affected trade unions. A first meeting is normally scheduled within two weeks after the request has been sent. The main purpose of the obligation to consult is so the employer can fulfil its duty to make an honest effort to share important information with the trade unions and take their views into consideration. The trade unions must be given a fair chance to influence the employer's decision about the proposed redundancy.

The consultations are normally conducted as meetings in person (or, often, in teams) and with various contacts in between. They often last between two and six weeks depending on the complexity of the case, the number of employees at risk of redundancy, and other factors.

5. What if you fail to comply?

Failure to comply with the information and consultation requirements may result in liability to pay punitive damages to the affected trade unions. However, failure to comply with those requirements will not make the restructuring and/or redundancies void or in any other way prevent the employer from carrying out the dismissals.

6. Selection order and protections against dismissal

In respect of collective or individual dismissal for business related reasons, the employer cannot arbitrarily decide who is dismissed, but must follow a specific procedure and specified order of selection.

First, the employer must investigate whether the affected employees can be offered any vacant position. In order to be offered a vacant position, the employee must possess satisfactory qualifications for that job. The investigation for open positions should include the whole legal entity within which the employee is employed, including in other geographical locations. However, this obligation does not extend to the wider corporate group.

Second, if there are no vacant positions where the employee possesses satisfactory qualifications, legislation sets out a priority ranking based on the length of employment at the specific workplace (i.e. geographical location) in question and, where a collective bargaining agreement applies, for employees covered by each CBA respectively. If no CBA is applicable, all employees at the workplace will be on the same 'seniority list' (list based on length of service).

The main rule is that employees who have been employed longer have priority over those who have been employed for a shorter period ('last-in-first-out' principle). If the employer can only offer continued work to an employee following relocation of the employee, the employee has priority only if they have satisfactory qualifications for the position held by an employee with shorter service. The aim is to dismiss employees with shorter service over those with longer service. However, it is often a delicate assessment as to the 'satisfactory qualifications' for taking on another position.

An employer, regardless of size and number of employees, may exempt from the priority ranking a total of no more than three employees whose work is of particular importance for the continuation of the business. If an employer is bound by a CBA, there may also be further exemptions. An exemption can only be exercised by the employer once every three months. It is up to the employer's assessment to determine who is of particular importance for the continuation of the business, but the decision cannot be contrary to good practice or be discriminatory.

Note that different rules regarding the last-in-first-out principle are allowed if the employer is bound by a CBA and this is agreed upon between the

employer and the trade unions that are party to that CBA.

Employers must also take care to ensure compliance with the special protections against dismissal that apply. In a redundancy situation, the following employees have certain statutory special protection against termination:

- An employee who has reduced working capacity and who has therefore been given special duties by the employer must be given priority for continued work, notwithstanding the rules on priority for redundancy, provided this can be accomplished without serious inconvenience to the employer.
- Trade union representatives must be given priority to continued employment notwithstanding the rules on priority if this is of special importance for the trade union's activities in the workplace.

7. Are additional payments required?

The term 'collective redundancy' does not exist in Sweden. The same process applies in all cases of redundancy regardless of how many employees are affected.

Provided the employer has just cause for termination due to redundancy, the only payment that is required is regular pay during the notice period. No additional payments need be made to the employee unless agreed otherwise in the individual contract. There are no legal requirements for the employer to provide the employee with a termination or severance payment.

However, in collective redundancy situations, employers often offer redundancy packages with additional compensation as per the employer's policy. It is also common for employers to offer severance pay in redundancy situations where the employer wishes to override rules that would otherwise apply (for example the 'last-in-first-out' principle).

8. Reputational issues

There are no jurisdiction-specific reputational issues for restructurings in Sweden.

9. Dos and don'ts

Do plan your restructuring carefully in advance.

Do assess any potentially difficult cases in terms of the last- in-first-out rules and think about whether you are willing to make settlements in order to keep certain key employees.

Do remember that all employers regardless of size can make use of an exemption from the last-in-first-out principle for at least three employees that are of particular importance for the organisation's future activities.

Do keep employees informed on a regular basis (e.g. with 'town-hall' meetings, up-to-date FAQs) during the redundancy process.

Do keep in mind that a collective dismissal in Sweden is usually quite easily accomplished compared to many other European countries but could still take anywhere between three and eight weeks in total.

Do be available for support and queries from the employees throughout the restructuring process.

Don't forget to already have a plan and strategy in place before consulting the trade unions.

Don't forget to ask employees about trade union membership (if the employer does not have a collective bargaining agreement).

Don't forget to make a risk assessment from a work environment perspective and involve the company's safety officers (if any).

Türkiye

Batuhan Şahmay

batuhan.sahmay@bener.com

Özlem Özdemir Yilmaz

ozlem.ozdemir@bener.com

1. Consultation requirements

Terminations of employment can be considered collective dismissals if:

- in a workplace employing between 20 and 100 employees, a minimum of ten employees are to be dismissed at that workplace within a month;
- in a workplace employing between 101 and 300 employees, a minimum of 10% of employees are to be dismissed at that workplace within a month;
- in a workplace employing 301 and more workers, a minimum of 30 employees are to be dismissed at that workplace within a month.

If so, the employer must notify the representatives of the trade union at the workplace (if any) and the Turkish Employment Institution of its intention to dismiss employees. The notification must be in writing and made at least 30 days before the terminations. It must include information related to:

- the reasons for the dismissal of the employees;
- the number and groups of employees to be affected; and
- the period of time within which the terminations will be carried out.

If there is a trade union representative at the workplace, negotiations will be held between the trade union representatives at the workplace and the employer on ways to avoid the collective dismissal, or to reduce the number of employees to be dismissed, and ways to minimise the adverse effects of the dismissal on employees. Feedback can be taken from the trade union representative, but is not binding on the employer. A document certifying and evidencing that a meeting was held must be drafted following the negotiations.

2. Ways to remain below the redundancy thresholds

Under Turkish labour law, redundancy thresholds are calculated over a one-month period per workplace. To remain below these thresholds, employers may: (i) stagger redundancies so that the numbers in any one-month period stay below the limit; (ii) offer and agree to terminate employment by mutual agreement, typically with the addition of employee incentives (as only unilateral terminations are counted as part of the above thresholds); (iii) consider alternative arrangements such as transfers, role changes, part-time work, unpaid leave (with consent) or short-time work.

3. Information requirements

The following information must be provided to trade union representatives at the workplace (if any) and the Turkish Employment Agency at least 30 days before terminations:

- the reasons for the dismissal of the employees;
- the number and groups of employees to be affected; and
- the period of time within which the terminations will be carried out.

İpek Pekdiri

ipek.pekdiri@bener.com

4. Consultation process

If there is no trade union representative at the workplace, there will be no consultation. If there is a trade union, one meeting with the union representative will be sufficient and the union representative's feedback is not binding. The meeting will generally take about an hour.

5. What if you fail to comply?

If an employer does not comply with any or all of the requirements for collective dismissals, it may become subject to an administrative fine of TRY 7,924 (for 2025) for each employee dismissed collectively. Note that the amount of the fine is revised each year. However, this will not affect the validity of the terminations.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under Turkish law. Employers are not required to justify whose employment will be terminated, provided that the selection made is not discriminatory (e.g. based on the employee's race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion or social origin).

Employers should also note that special protection exists for employees who are entitled to 'job security'. This applies to permanent employees, employed for at least six months, and in these cases the employer must provide a 'just' or 'valid' reason for dismissal. Importantly, the operational requirements of the establishment (e.g. restructuring) will constitute a 'valid' reason. Termination based on the following circumstances does not constitute a just or valid reason for termination:

- union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours;
- acting or having acted as, or seeking office as a union representative;
- the making of a complaint or participation in proceedings against the employer;
- absence from work during maternity leave;
- a protected characteristic;
- temporary absence from work during a recovery period owing to illness or accidents.

Employers must therefore exercise caution when it comes to the reason given for a dismissal.

7. Are additional payments required?

The normal legal entitlements of dismissed employees (severance payment, notice payment, payment for accrued but unused annual leave days, and other benefits provided during the employment) must be paid in cases of collective dismissal. Employers have no obligation to make additional payments to employees due to collective dismissal.

8. Reputational issues

Besides the general social and economic reputational risks, there are no jurisdiction-specific reputational issues in Turkey.

9. Dos and don'ts

Do make an action plan prior to redundancy and make a risk assessment.

Do keep in mind that employee terminations will be considered a collective dismissal (which requires additional steps) in the following scenarios where the employees are terminated within one month of each other:

- a minimum of ten employees are terminated in a workplace employing between 20 and 100 employees;
- a minimum of 10% of employees are terminated in a workplace employing between 101 and 300 employees;
- a minimum of 30 employees are terminated in a workplace employing 301 or more employees.

Do obtain a managerial decision (i.e. Board of Directors/Managers resolution) related to the reason for termination.

Do investigate whether it is possible to retain employees following the managerial decision (e.g. whether other positions may be offered to the employees).

Do submit a written termination notice to each employee separately, stating the reasons for termination.

Do make the required payments to each employee who will be terminated due to redundancy. These include unpaid salary and benefits accrued during employment, unused annual leave pay, payment in lieu of notice (if the notice period will not be provided), and the statutory severance payment (if the employee has completed at least one year of employment).

Don't terminate the employees' employment agreements immediately after the restructuring. Employment agreements may be terminated by the employer with valid reason due to the requirements of the workplace, work or business (including redundancy).

Don't hire new staff into positions that could be filled by the employees dismissed due to the restructuring exercise within a period of six months before and after their termination.

United Kingdom

David Hopper

david.hopper@lewissilkin.com

William Brown

william.brown@lewissilkin.com

1. Consultation requirements

The employer must consult collectively in certain circumstances where it proposes multiple dismissals on grounds of redundancy. The duty to consult is triggered when an employer has 'proposals' to dismiss. This means it has formulated a plan that is likely to result in dismissals. It is important that consultation begins before any final decisions have been taken.

The consultation must cover all affected employees, including those who may be affected by the dismissal of others. The consultation takes place with union representatives (where the employer recognises the union in respect of the relevant employees), or otherwise with employee representatives elected for the purpose.

The requirement is triggered by 20 or more proposed dismissals at one establishment within a period of 90 days. Employees on fixed-term contracts which are coming to an end do not count towards this total. An 'establishment' usually covers one geographical workplace, but can cover a number of workplaces if they are organised centrally. Each individual establishment must be looked at separately when calculating whether the requirement to carry out collective consultation is triggered: they do not have to be aggregated together. Dismissals are also counted on an entity basis: there is no need to aggregate together dismissals proposed by different employing entities in the same corporate group. It is worth noting, however, that there are proposals to introduce a new and separate test as part of the Employment Rights Bill which will involve counting proposed redundancies across the employing entity as a whole, regardless of the location of their workplace. The Government has indicated that these changes will come into effect in 2027.

Separately, the employer must consult individually with each employee who is selected for redundancy in order for their dismissal to be fair, although currently only employees with two years' service enjoy the right not to be unfairly dismissed. This applies to all redundancy dismissals, even where fewer than 20 dismissals are proposed.

Employers also have a separate duty to notify the government if they are proposing collective redundancies. The duty is triggered if it proposes to dismiss 20 or more employees at one establishment within 90 days (the same as for the obligation to consult). The notification must be given before notices of termination are issued and at least 45 days before the first dismissal takes effect (or 30 days if fewer than 100 employees are to be dismissed). The relevant information must be provided on form HR1 and broadly reflects the information that must be provided to the employee representatives for collective consultation purposes. Failing to submit form HR1 is a criminal offence and the penalty is an unlimited fine.

2. Ways to remain below the redundancy thresholds

Employers can stagger dismissals, to ensure that fewer than 20 redundancies are proposed in any rolling 90-day period, meaning that no obligation to conduct a collective redundancy consultation arises. There are no legal restrictions on staggering dismissals in this way, and it is relatively common for employers to adopt this

approach.

Voluntary redundancy programmes can also potentially be used as an alternative to triggering collective redundancy consultation obligations. If an employee's employment ends as a result of accepting an offer of voluntary redundancy, they will not count towards the number of dismissals for the purposes of the collective redundancy consultation, provided that failure to accept that offer will not result in the employer proposing compulsory redundancies instead.

3. Information requirements

The following information must be provided in writing to the union or elected representatives:

- the reasons for the proposed dismissals;
- the numbers and descriptions of employees whom it is proposed to dismiss as redundant;
- the total number of employees of any such description employed by the employer at the establishment;
- the proposed method of selecting employees who may be dismissed;
- the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect;
- the proposed method of calculating the amount of any redundancy payments to be made (over and above the statutory redundancy payment) to employees who may be dismissed;
- information about the employer's use of agency workers – how many, where they are working, and the type of work they are carrying out.

The employer's provision of information marks the start of the consultation period. However, whilst all information must ultimately be provided, not all information needs to be provided at the start of the process. For example, information on redundancy payments could follow later in the process.

4. Consultation process

The legal minimum requirement is for the consultation to cover:

- avoiding the dismissals;
- reducing the number of dismissals;
- mitigating the consequences of the dismissals.

As part of consulting on the above topics, the employer will, in practice, also be required to consult the employee representatives on the business rationale for its proposals as part of exploring how to avoid the dismissals.

Consultation must take place 'with a view to reaching agreement'. This means that the parties do not have to agree, but the consultation process must be open to suggestions from the representatives and give them conscientious consideration before it might reject them.

In practice, employers will usually consult on all of the issues covered by the initial list of information they provide to the representatives. In particular, it would be good practice to consult on the proposed method of selecting the employees to be dismissed. Failure to do so can mean that redundancy dismissals are deemed unfair for those employees with at least two years' service.

Consultation must begin 'in good time'. As a minimum, where 100 or more dismissals are proposed, it must start at least 45 days before the first dismissal takes effect. For at least 20 but fewer than 100 proposed dismissals, it must start at least 30 days before the first dismissal takes effect. Consulting for the minimum period does not necessarily mean that an employer has consulted in good time, particularly if it had formulated the proposals some months in advance. It is prudent to start consultation as soon as possible once there are proposals.

In practice, consultation will normally last for most of the minimum 45/30 day period, although it can end earlier. Consultation about avoiding the dismissals and selection methods will usually take place first, so that the employer can start the selection process while consultation continues on other issues, such as enhanced redundancy payments.

There is a limited exception to the duty to consult if there are 'special circumstances' that make consultation not reasonably practicable. This exception has been very narrowly interpreted and applies very rarely. Most of the cases involve insolvency and, even then, not every insolvency situation will make consultation impracticable.

Even if special circumstances exist, an employer must still conduct whatever consultation is reasonably practicable.

5. What if you fail to comply?

The consequences if the employer fails to comply with the information and consultation requirements are the same for breach of one or both requirements. An employment tribunal may award up to 90 days' gross pay to each affected employee. In determining what length of award is appropriate, the tribunal decides what is just and equitable in all the circumstances. The tribunal will start with the maximum 90-day protective award and reduce it only if there are mitigating circumstances. In other cases, the tribunal will focus on the seriousness of the employer's default, including whether it was deliberate. If an employer only starts consultation once it has decided to make redundancies, it is likely to face a substantial protective award.

Looking ahead, and as part of its Employment Rights Bill, the Government will soon increase the maximum penalty for failure to comply with these information and consultation obligations to 180 days' gross pay. This increase is expected to

come into effect in April 2026.

6. Selection order and protections against dismissal

There is no statutory selection order for dismissals under UK law.

However, an employer who wishes to mitigate the risk of successful unfair dismissal claims in a redundancy situation where more than one employee performs the role to be eliminated must first identify an appropriate 'pool' of employees to whom the selection criteria will be applied. Employers have some flexibility in defining this pool and it is difficult for an employee to challenge the choice made if the employer has genuinely applied its mind to the issue.

Most employers use a matrix of criteria for this purpose, including factors such as:

- relevant skills and knowledge;
- relevant experience;
- relevant qualifications or training;
- disciplinary record;
- communication skills (verbal/written);
- time management/productivity.

The selection criteria applied should be as fair and objective as possible, appropriate to the circumstances, non-discriminatory, and there should be a business justification for the use of each criterion. Employers should be cautious about using subjective criteria such as 'attitude' or 'team player'.

Although the 'last in, first out' approach has been used by employers in the past, it runs the risk of falling foul of age discrimination legislation as younger employees are more likely to be selected for redundancy.

Employers must also take care when it comes to the reason for any dismissal as certain ones are automatically unfair. If one of these reasons applies, the legal rules about fair procedure are irrelevant. Also, the employee does not need to have been employed for any particular length of time: there is no qualifying period for bringing a claim. The main examples of automatically unfair reasons for dismissal are:

- pregnancy, childbirth or maternity leave;
- parental leave, adoption leave, paternity leave;
- carrying out health and safety activities;
- trade union membership or activities;
- whistleblowing; and
- asserting a statutory right.

Furthermore, pregnant employees and some new parents who take statutory leave have special priority status in a redundancy situation. Employers must offer them a suitable alternative vacancy, if there is one. This priority status applies for a certain period of time depending on the type of leave the employee is taking. For those on maternity leave, the priority period starts when an employee tells their employer that they are pregnant and ends 18 months from the exact date the baby is born. If an employee does not tell their employer the exact date, the priority period ends 18 months from the expected week of childbirth. Failure to offer a suitable alternative vacancy (provided one is available) to an employee with this priority status will render their dismissal automatically unfair.

7. Are additional payments required?

No. Under UK law, all employees with more than two years' service are entitled to a statutory redundancy payment if they are made redundant. These payments must be made irrespective of the number of redundancies. There are no additional payments to make in cases of collective redundancy.

8. Reputational issues

There is a fairly low risk of reputational damage in the UK if an employer complies with its legal obligations. However, the practice of reducing terms and conditions by dismissing and then re-engaging employees, or replacing them with other employees, on inferior terms (often called 'fire and rehire' and 'fire and replace') is controversial if adopted by a large and profitable employer. In fact, the Government is introducing significant new restrictions on these practices as part of its Employment Rights Bill, which are expected to come into effect in October 2026.

9. Dos and don'ts

Do carefully plan redundancies to see if you can avoid collective consultation if practicable (i.e. look at the proposed timelines, previous redundancies which might count toward the threshold, the number thresholds per specific employer, and the concept of establishments).

Do keep trusted staff, employee bodies and recognised trade unions onside with credible background information and justifications for action.

Do prepare easily understood information for affected people (e.g. reasons, timing, severance packages).

Do prepare very thoroughly where selection of employees is an issue, as this is the key area for disputes.

Do create FAQs and information sources for employees affected; they will have hundreds of questions.

Don't ignore the need to consult, particularly with trade unions and employee bodies.

Don't miss the collective consultation thresholds. This could lead to potential criminal liability and possible payment of 90 days' pay per affected employee.

Don't forget that the better the communication and the more human you can be about the process, the smoother it will be.

Don't forget to add in some sweeteners to the package to make it attractive.

Don't do the downsizing in small, repeated exercises. We have found that a bigger, deeper and earlier cut maintains morale much better.

Don't forget that how you act at this time to support employees will be remembered for a long time.

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@iuslaboris
/iuslaboris
iuslaboris.com
info@iuslaboris.com

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