

New provisions on collective redundancies under Romanian Labor law



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Recently, the Labor Code has been subject to an amendment that has introduced several new aspects related to the employers' rights and obligations when carrying out collective redundancy procedures. The intention of the legislator was to achieve closer interlinking between the different steps of the collective redundancies procedure even if, at first sight, it appears that the obligations of the employers are stricter than under the former regulations. On the other hand, one should also note that these amendments aim to achieve a complete transposition of the acquis in the collective redundancies' field and to remedy the shortcomings outlined in the May 2006 Monitoring Report on Romania with respect to the information and consultation procedures and of the administrative capacity of the local authorities in mitigating the effects of collective redundancies.

Thus, the new enactment maintains the general time-frame of the procedure but, in addition, it provides for a more comprehensive understanding of the

steps that need to be taken throughout the procedure. First of all, the employers are still obliged to initiate consultations with the trade union or the employees' representatives, whatever the case may be; but in order to have a proper consultation, they are also obliged to provide in due time relevant information related to the dismissals (each topic falling under the obligation to inform is expressly stipulated under the law) to the trade union/employees' representatives. The same information needs also to be sent to the local labour inspectorate and to the local employment agency.

The employers can no longer base their decision to make collective redundancies on a few limited situations not directly related to the employee (i.e. economic difficulty, technological changes or the reorganization of the employers' activity). Now, any termination of the employment contract based on any reason not directly related to the employee, but that is the result of a serious and genuine cause, could be the basis for collective redundancy procedures if a certain number of employees are dismissed.

The new deadline for the trade union/employees' representatives to offer suggestions with a view to avoiding dismissals or to reduce the number of dismissed employees has been reduced from the previous 15 days to 10 days, as

from the date of receiving the information already mentioned above.

Further to the consultations with the trade union/employees' representatives; if the employer then decides to continue with the collective redundancies, the company is obliged to send a new notification at least 30 calendar days before the issue of the dismissal decisions to the same addresses of the first notification reiterating the information provided in the first notification and, in addition, the results of the consultations with the trade union/employees' representatives. This second notification is, in its turn, subject to the comments of the trade union/employees' representatives. The 30 calendar day period can be reduced by a decision of the local labour inspectorate bearing the endorsement of the local employment agency.

Upon a well founded request received from any party involved in the procedure, the local labor inspectorate, after consultation with the local employment agency, can postpone the issue of the dismissal decisions within a maximum of 10 calendar days.

It is worth mentioning that the role of the local employment agency has significantly increased under the new regulations, such an authority having also the express responsibility for finding solutions to mitigate the effects of the collective redundancies. ■