

MASSIVE REDUNDANCIES

1. The essence of the concept of "mass redundancies"

According to item 9, para. 1 of the LC "Mass redundancies" are the dismissals on one or more grounds made at the discretion of the employer and for reasons unrelated to the particular employee, when the number of dismissals is:

(a) at least 10 in companies where the list of employees in the month preceding the mass dismissal is more than 20 and less than 100 employees for a period of 30 days;

(b) at least 10 per cent of the number of employees in companies where the list of employees in the month preceding the mass dismissal is at least 100, but not more than 300, for a period of 30 days;

(c) at least 30 in companies where the list of employees in the month preceding the mass dismissal is at least 300 or more employees for a period of 30 days.

Where during the periods under letters "a" - "c" the employer has fired at least 5 employees, any subsequent termination of the employment relationship, carried out at the discretion of the employer for other reasons and for reasons unrelated to the particular employee, takes into account in determining the number of redundancies under letters "a" - "c".

Whether there is a mass redundancy in a company will depend on: The grounds for dismissal, (such as the grounds referred to in Article 328, Paragraph 1, Items 1-4), the number of redundancies and the number of employees in the company, as well as the time period during which these redundancies were made.

2. Mass redundancy notification procedures

There are two parallel procedures – one is under Art. 130a of the Labor Code that creates an obligation for the employer towards the employees, and second one that is under Art. 24 and Art. 25 of the Employment Promotion Act, further developed in Art. 18-19 of the Regulations for the implementation of the Employment Promotion Act, obligations are created for the employer towards the division of the Employment Agency.

2.1. Labor Code notification procedure

This procedure is developed before a mass redundancy is made. The employer cannot rely on the fact that another authority has made the same decision for mass redundancy. The purpose of consultations and any agreement is to avoid or limit mass redundancy and to mitigate their effects.

The notification procedure consists in the obligation of the employer to perform the following actions:

- To provide written information to the representatives of the union organizations and to the representatives of the employees under art. 7, para. 2 of LC with defined content.

- To start consultations with the representatives of the union organizations and the representatives of the employees under art. 7, para. 2 of the LC.

- Make an effort to reach an agreement with them.



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Regardless of the fact that the employer or other legal entity has taken the decision that led to mass redundancy, the employer is obliged to provide written information before the beginning of the consultations to the representatives of the union organizations and to the representatives of the employees under Art. 7, para. 2 of the LC for:

- the reasons for the planned redundancies;
- the number of employees to be dismissed and the main economic activities, groups of occupations and posts to which they relate;
- the number of employees of the main economic activities, groups of occupations and positions in the company;
- the specific indicators for the application of the selection criteria under Art. 329 the employees to be fired;
- the period during which the redundancies will take place;
- benefits due in respect of redundancies.

After providing the above information within three working days, the employer is obliged to send a copy of it to the relevant department in the Employment Agency.

The representatives of the union organizations and the representatives of the employees under Art. 7, para. 2 of the Labor Code may send to the respective department of the Employment Agency an opinion on the information provided to them regarding the planned redundancy. In case of failure of the employer to provide information, representatives of unions and representatives of employees have the right to report to the Executive Agency "General Labor Inspectorate" for non-compliance with the labor legislation.

The employer shall start consultations with the representatives of the union organizations and the representatives of the employees under Art. 7, para. 2 in a timely manner, but not later than 45 days before their completion, and make every effort to reach an agreement with them. The procedure and the manner of holding the consultations shall be determined by the employer, the representatives of the union organizations and the representatives of the employees under art. 7, para. 2 of the Labor Code, which can be done by agreement or through a collective agreement. The consultations are held orally.

The envisaged mass redundancies shall be made no earlier than 30 days after notification to the Employment Agency, irrespective of the notice period.

In the case of an agreement, it must be in writing.

2.2. Notification procedure upon Employment promotion law

In the case of mass redundancies, the employer is obliged to notify in written form the relevant division of the Employment Agency no later than 30 days before the date of the layoffs. The notification must contain all the necessary information on the expected mass redundancies, including:

Reasons for the redundancies; the number of employees to be laid off and the main economic activities, groups of professions and posts to which they relate; the number of employees of the main economic activities, groups of professions and positions in the enterprise; the specific indicators for the application of the criteria for selection of employees under Art. 329 of the LC, who will be laid off; the period while the redundancies will be made, as well as information regarding the preliminary consultations with the representatives of the



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trade union organizations and with the representatives of the employees under Art. 7, para. 2 of the Labor Code. A division of the Employment Agency sends a copy of the notification to:

1. the municipal administration;
2. the territorial division of the National Social Security Institute;
3. the territorial division of the Executive Agency "General Labor Inspectorate".

The employer is obliged to provide the representatives of the trade union organizations and the representatives of the employees under art. 7, para. 2 of the Labor Code a copy of the notification within three working days.

Upon receipt of the notification, teams consisting of a representative of the employer, representatives of the employees' organizations and employees of the enterprise, a representative of the branch of the Employment Agency and a representative of the municipal administration are immediately formed. The teams draft projects for the necessary measures aimed at:
- employment mediation; - adult education; - Starting an independent business activity; - employment programs. The projects are submitted for approval by the Employment Committee, on the basis of which they apply for funding under the conditions and in the order determined by the regulations for the implementation of the Employment promotion law.

Compliance with the procedure is not a condition for the lawfulness of the dismissal, but only for administrative liability. It should be emphasized that an employer who made a mass dismissal in the event of failure to comply with the requirement to notify the EA, is subject to a fine or a pecuniary sanction of BGN 200. for each fired employee.

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