

January 2016

Collective Redundancies and Reorganisations

Hungary

Summary

In Hungary, employers must follow a rather strict procedure set forth by the applicable collective agreement and the Hungarian Labour Code when making collective redundancies.

When do the provisions apply?

The provisions apply where an employer is proposing to dismiss the number of employees specified below within a 30-day period.

Number of employees to be dismissed

at least 10 employees
10% of the employees
at least 30 employees

Size of the organisation

between 21 and 99 employees
between 100 and 299 employees
300 or more employees

The provisions only apply to dismissals and terminations by mutual consent relating to the employer's operations. Dismissals connected to the employee's performance or skills do not count. The number of terminations by dismissal, mutual consent, and terminations without notice during fixed term employment should be added together for the purpose of these calculations.

What are the requirements?

Prior to making collective redundancies, an employer must:

- inform the appropriate representatives (discussed below) and the government authority of its intention to make collective redundancies;
- consult with the appropriate representatives; and
- inform the appropriate representatives, the employees and the government authority of its decision in respect of collective redundancies.

At least seven days before the consultation process begins, the employer must provide oral and written information to the appropriate representatives about its proposed intention to make collective redundancies. The written information must include the reasons for the proposed redundancies, the number of employees to be made redundant divided into categories, the number



of employees employed during the last six months, the period over which the redundancies will take place, the criteria to be used to select the employees to be made redundant and the conditions for eligibility for any redundancy payments (other than statutory redundancy payments) and their method of calculation.

Who are “appropriate representatives”?

Before the announcement of the collective redundancies, the employer must consult with “appropriate representatives”. This generally means the employee representatives of the works council. The Labour Code provides that a works council must be elected at all companies or at all of the employer’s independent sites where the number of employees exceeds 50. If there is no works council, the employer must consult with ad hoc representatives of the employees.

How must the employer consult?

The employer must consult with the representatives at least fifteen days before taking the decision on collective redundancies. During such consultation the parties shall discuss possible ways to prevent redundancies, lessen their impact and consequences, and reduce the number of employees involved. If an agreement is reached it must be put in writing and one copy must be sent by the employer to the Government Authority. The employer must notify each employee involved in the collective redundancy process in writing at least 30 days before sending out the notices for dismissal. Collective redundancies will not take effect until 30 days after these employee notifications.

What sanctions apply if the process is not followed?

Failure to comply with the Labour Code regulations can result in unlawful termination. The consequences of unlawful termination apply only in the case of ordinary dismissals; terminations by mutual consent or terminations without notice are excluded. If the employment is terminated unlawfully, the employer must pay lost wages (up to a maximum of 12 months’ average earnings) and compensate the employee for any harm suffered.

If the employer fails to notify the representatives of the works council, they can apply to the court.

If the employer fails to notify the Government Authority or the notification is defective or the employer provides incorrect data, the Government Authority has the right to levy fines up to a maximum of EUR 1700.

Are certain employees protected from dismissal?

The employer cannot dismiss an employee who is within five years of the minimum statutory retirement, unless proper justification is given. There are employees who enjoy special protection



against ordinary dismissal as listed by the Labour Code (e.g. employees unable to work due to illness, pregnant women, etc.).

How do I choose which employees to dismiss?

At least seven days before the above mentioned consultation the employer must provide oral and written information to the appropriate representatives on the criteria to be used to select the employees to be made redundant. The employer must provide clear reasons for the selection of the employees and the criteria must be submitted to the Government Authority. The employer and the employee representatives may agree the selection criteria in the above mentioned consultation agreement. Unfortunately the Hungarian Labour Code does not contain any regulations on such selection criteria, but it does happen many times that within a family the husband and wife are both affected. Therefore in the consultation agreement the employer and the employee representatives may agree that only one person shall be dismissed within a family.

Unfair dismissal

If the employer breaches the relatively strict procedural rules governing collective redundancies, this may render the whole procedure unlawful. If the employment is terminated unlawfully, the employer must pay lost wages (up to a maximum of 12 months' average earnings) and compensate for any harm suffered.

What will it cost?

Aside from statutory redundancy payments, there are no direct costs for making redundancies, although the minimum consultation and notice periods can result in significant costs.

An employee is entitled to a statutory redundancy payment, calculated as follows, if his or her employment is terminated by an ordinary dismissal:

Length of service	Amount of pay
at least 3 years' employment	1 month's pay
at least 5 years' employment	2 months' pay
at least 10 years' employment	3 months' pay
at least 15 years' employment	4 months' pay
at least 20 years' employment	5 months' pay
at least 25 years' employment	6 months' pay

In addition, the minimum notice period is 30 days, but the maximum notice period may not exceed 6 months. Employees may also be entitled to receive enhanced redundancy payments under the terms of their contract or any collective agreement.



Are staff required to work during the consultation / notice period?

The employer must release employees from work at least for half of the notice period. Such release can be allocated in two parts at the employee's discretion.

Can I ask employees to sign a waiver agreement?

Employers often enter into settlement agreements with individual employees to compromise potential or actual claims. There is no requirement that the employee must be independently advised through his or her own solicitor. However, claims for failure to inform and consult can be pursued through the courts in certain circumstances, e.g. where the employee was denied the possibility to consult with his or her own solicitor or in cases where the employer's manner influenced the employee to act other than in accordance with his or her free will when entering into the settlement agreement.

Do I need consent from a public authority?

No. While the employer needs to notify the Government Authority, it does not need to obtain consent for the collective redundancies.

Can disgruntled employees bring claims?

Yes. Employees can bring claims for unfair dismissal before the court. Such claims generally need to be brought within 30 days of the employee's dismissal.

This material is for general information only and is not intended to provide legal advice.

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