

COLLECTIVE REDUNDANCIES GUIDE FOR METAL INDUSTRY

Your Right to be Informed and Consulted – situation in Macedonia

In Macedonia the problem of collective redundancies first occurred in 1995 and since is present in more or less severe scope particularly in the industry, during process of restructuring, transformation and privatization. Lately, the collective redundancies occur in connection with the global crisis (2008, and on) since metal industry in Macedonia had to reduce the production and scope of activities.

Legal Framework

The subject of information and consultation generally and specifically for the cases of collective redundancies is regulated in the Law on Labour Relations. The law is brought in 2005, and amended in accordance with the Directive 98/59/EC in September 2010.

The current provisions in the law regarding the information and consultation in case of collective redundancies are:

- If the employer intends to bring decision for redundancy of bigger number of employees out of business reasons, namely at least 20 employees for period of 90 days for each termination of employment, no matter the total number of employees, it counts as collective redundancy.
- In case of collective redundancy the employer is obliged to open information and consultation procedure with workers' representatives, at least a month prior to the beginning of redundancy and to provide all relevant information prior to the consultation for reaching an agreement.
- Mentioned consultation include at least ways and means for avoiding collective redundancy, reducing the number of workers to be redundant or mitigation of consequences through use of accompanying social measures with aim to help redundant workers to re-employ or get training.
- Specification of relevant information requirements, as required by the Directive.
- The employer is obliged to inform in writing the service in charge for mediation in employment after finishing the process of consultation, but maximum 30 days before bringing the decision, and to present a copy to workers' representatives, who can submit their proposals to the service.
- The notice period is 60 days.
- The information and consultation process does not apply to redundancies due to termination of business by court decision, short-term contracts and public administration bodies.

According to this, the 98/59/EC Directive provisions are incorporated in national legislation.

Experience of SIER with collective redundancies

SIER has been dealing with collective redundancies for 20 years. In this period of time the conditions under which collective redundancies occur have changed, however, the process of information and consultation was maintained for the whole period (even prior to the legal obligations).

The process of privatization, restructuring of the companies in transition period caused lot of redundancies, in which SIER always fought for better conditions for the workers, through constructive consultation and participation process. In collective agreements terms for information and consultation process were stipulated, as well as criteria for ranking employees in case of redundancy. The main goal was to make the process as objective as possible, to give priority to voluntarily acceptance of redundancy with attractive severance pay and finally to provide the highest possible severance pay.

Unfortunately, we have not been able to prevent or avoid collective redundancies. The employers in most cases tend to make the process of information and consultation formal, just for the sake of legal provisions, however SIER always had constructive consulting role, which in most cases led to reducing the number of redundant workers, and in some cases even giving up from redundancy, after taking time for consultation and considering the union proposals.

In the last period the tendency for collective redundancies has increased as consequence to global crisis, which particularly affected the metal industry in Macedonia. However, from our perspective, in this last period the process of information and consultation has been particularly vibrant. This is due to already established roadmap and practice of consultation and participation (not just information).

Yet, we must point out the in spite of harmonized regulation with EC Directive, there are few moments that not only engrave, but sometimes even disqualify the whole idea of information and consultation.

First of all, the law operates with the term “workers’ representatives” which by default means union representatives, if workers are organized. However, in case the workers are not organized, than there is no requirement for electing/nominating representatives neither there is instruction who and how will do so. This is well used by employers in un-organized companies and there is practically no process of information or consultation, they just inform the service in charge for mediation in employment, which does not require evidence for information and consultation.

Second, the directive, and the national legislation as well, excludes the short-term contracts. This is an era of short term contracts. At the moment, in Macedonia there are green-field investments in which there are from several hundred to several thousand employees, all of them with short-term contracts. In most cases the worker does not even have a copy of the contract, neither knows when it expires. The law gives the employer opportunity to keep same worker under short term contract for 5 years and they use (and abuse) this opportunity maximally.

And last, but not least, Macedonia is a country with generally underdeveloped culture of social dialogue. On one hand, the employers tend to undermine the process of information and consultation, and on the other hand, it depends on union's capacity how it will cooperate with it. And the trade-union scene in the country is so fragmented that the capacities are more often weak and insufficient.