

Bird & Bird

Overcoming organisational challenges and reshaping the workforce

International HR Services

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Introduction

In a time of global disruption companies must overcome organisational challenges and reshape their workforce to adapt to a rapidly changing business environment

A multitude of disruptive forces is currently affecting the global business community, with few exceptions. Following the pandemic and consequential rapid digitalisation across a number of industries, geopolitical tensions, fears of recession and a global economic downturn now mean that companies are facing some of the most significant challenges of our century.

The disruption caused by these factors may well lead to a total transformation of the globalised economy, altering fundamental aspects of our society including the way in which we manufacture and distribute goods, the way in which we deliver services, the way in which people communicate and work together and the way in which value is created.

However, before we get to see the bright lights of a new working world, businesses are re-evaluating their existing strategies for growth and consolidating their revenue streams ahead of this sea of change. In order to minimise disruption and business cost, companies that have a global presence must navigate a patchwork of laws, rules and regulations when planning for business reorganisations, while also being sensitive to the cultural differences that may exist across the jurisdictions in which they operate.

This document aims to assist businesses in their strategic planning and operational execution of workforce restructurings and change management programmes. It provides an overview of the key legal requirements in 19 jurisdictions across EMEA and APAC including, amongst other details, the basic redundancy rights, settlement expectations, information and consultation obligations and key timelines on a country-by-country basis. We hope you find it useful and please do not hesitate to reach out to us if Bird & Bird can support you on any such projects.

Please note that this document is up to date as at June 2022. It is not designed and should not be used as legal advice with respect to any form of restructuring or change management programme.



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Cross-border reorganisations and the EWC

An integral part of strategic planning and operational execution of cross-border restructurings in Europe is the key role of any European works council ('EWC').

As an additional layer in the overall restructuring process, organisations with an EWC in operation¹ must examine, assess and integrate the EWC in any cross-border reorganisation involving multiple jurisdictions within the European Union (including the United Kingdom, and other jurisdictions covered by the EWC agreement). When assessing the EWC's role, it is fundamental to conduct an analysis of the underlying EWC agreement, understand the impact of the agreement's governing law and take into consideration how the organisation has dealt with 'exceptional circumstances' in the past.

Every EWC agreement should have substantive and procedural provisions to deal with exceptional circumstances, which under relevant EU legislation clearly cover cross-border restructurings (collective lay-offs, closure, etc.). The provisions encompass the timing of the procedure, the content of the information to be presented and the scope of the consultation, as well as the use of experts, the relationship between EU and local procedures and key issues like confidentiality. Failing an EWC agreement, whenever the EWC functions on the basis of the so-called 'subsidiary rules', such rules in the governing national laws in principle should set forth similar sets of provisions.

The practical application of such rules, their enforcement and sanctions in case of non-compliance will be driven by the agreement's governing law, and hence the wider embodiment of the EWC's role and powers in the legal system of such governing law is also crucial. National laws tend to differ quite substantially on important issues like sequence and timing of the EWC I/C procedure, the concepts of information and consultation, the role of experts, trade unions and administration and the enforcement of the rules. Finally, the quality of cross-border collective labour relations before and outside of any restructuring or change management programme will have an impact on the effectiveness of the process in these exceptional circumstances as well.

Managing these processes properly at EWC level with a view to ensure the roll out of a smooth, timely and cost-effective EU restructuring programme can be strategically very important as it may directly impact the overall quality of long-term employee relations, the company's financial liabilities, and its reputational opportunities or risks.

Bird & Bird's extensive experience and stellar expertise in handling EWC related issues can undoubtedly be a key asset to you in successfully planning, preparing and managing your cross-border reorganisation transactions on the ground.

¹ According to official sources, there about 1,300 EWCs in operation in the European Union.

twoBirds Access

Coordinating and delivering global projects through effective project management

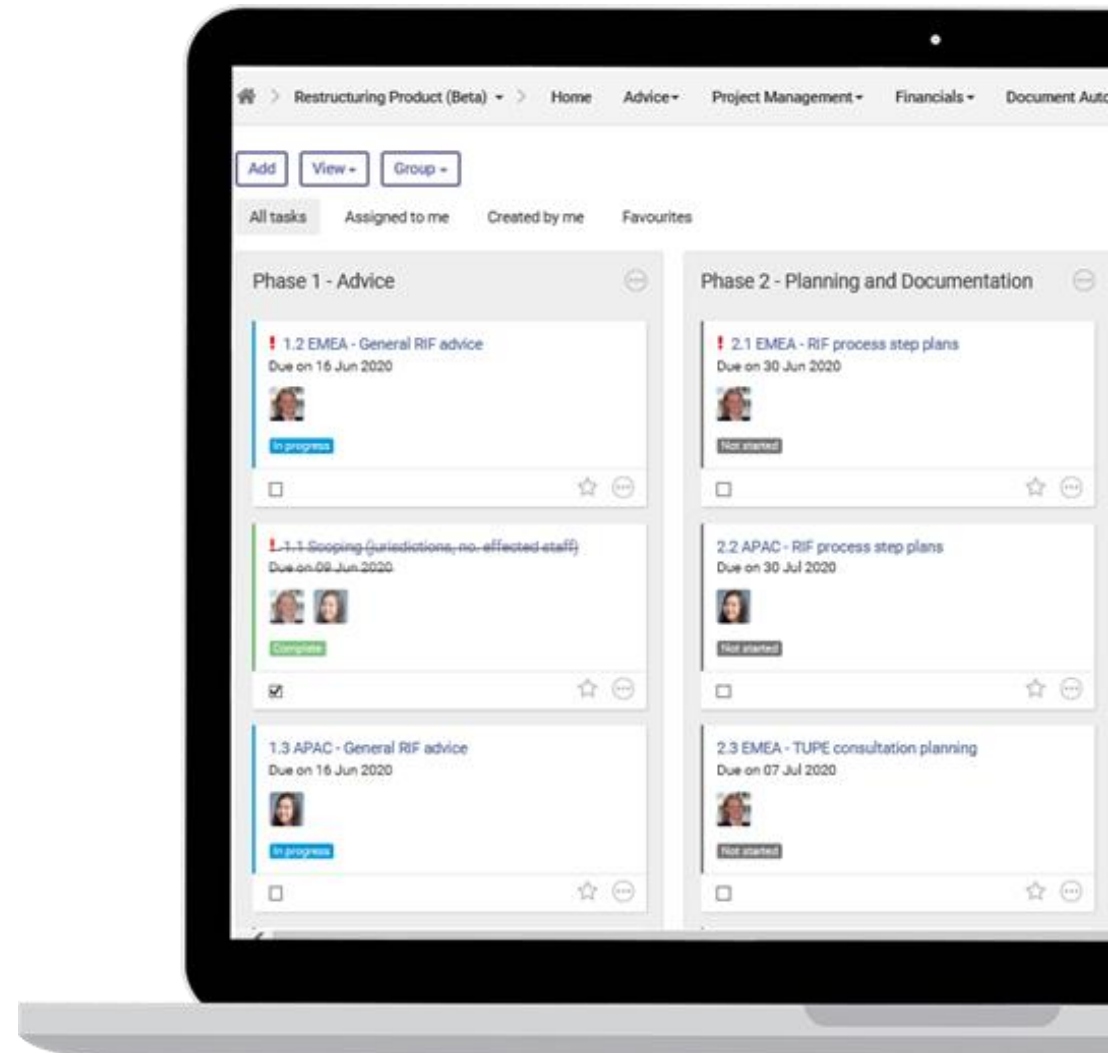
Large-scale international projects can be challenging to manage, particularly when multiple time zones are involved and even more so when working remotely.

Our **twoBirds Access** platform enables us to effectively manage tasks and deadlines on large projects, reduces email traffic and gives clients visibility on progress. This cloud-based solution incorporates workflow and global project timeline mapping, giving all users access 24/7 to relevant information, irrespective of location. The interactive nature of portal means individuals get email alerts when tasks are assigned and reminders when deadlines due, so the project stays on track.

All Access sites are hosted by HighQ, an ISO 27001 certified and industry leading collaboration portal. The encrypted security portal ensures that all uploaded documents are safe and can only be accessed by pre-approved individuals. Permissions can be set at different levels, so project members only see information that is relevant to their workstream(s). In addition, multiple log-ins can be issued, giving you control over which parts of the site can be accessed by different team members.

Key benefits:

- Access to key documentation 24/7
- Visibility on project progress and milestones
- Reduction in email traffic
- Tailored views for different teams



Glossary

Common terms and abbreviations

CV	COVID-19
CBA	Collective bargaining agreement
CLO	Collective lay-off
ER	Employee representative
ET	Employment tribunal
FTO	Freedom to operate
HW	Home working
I/C	Information/consultation (procedure/stage)
Pilon	(Severance) payment in lieu of notice
RIF	Reduction in force
SME	Small and medium enterprise
SSC	Social security contributions
TU	Trade union
WC	Works council (or similar body of employee participation at plant/company level)

Government aid and recession resources

View resources by country



Bird & Bird has extensive contacts with preferred firms in countries where our firm does not have offices.

Click on country name:

Australia	Hungary
Belgium	Italy
China	Netherlands
Czech Republic	Poland
Denmark	Singapore
Finland	Slovak Republic
France	Spain
Germany	Sweden
Hong Kong	UK

Australia



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Must be a case of a '**genuine redundancy**', which means that:
- the employer no longer requires the person's job to be performed by anyone because of changes in the operational requirements of the employer's enterprise;
- the employer followed any consultation requirements in an Award or CBA; and
- the employer considered any redeployment opportunities.
- Employee must have at least 1 year of continuous service and work for an employer that employs 15 or more persons to be eligible for redundancy payments.
- Minimum legislative termination notice requirements (unless greater periods are set out in a contract) are based on employee's length of continuous service:
 - < 1 year of continuous service: 1 weeks' notice;
 - 1 – 3 years: 2 weeks' notice;
 - 3 – 5 years: 3 weeks' notice; and
 - >5 years: 4 weeks' notice.

Concepts CLO and closure

- **CLO**: The rules relating to individual redundancies discussed in the adjoining column also apply to collective redundancies and mass layoffs.
- TUs must be informed where 15 or more employees are to be made redundant.
- Modern awards and CBAs also include specific consultation clauses which require employers to consult with employees and their representatives (e.g. TUs) regarding the implementation of major workplace changes, such as redundancy processes. These obligations require the employer to also consider the employees' responses to any such proposals.
- The consultation processes outlined above must take place prior to notice of termination being given to the affected employees.
- If a decision is made to proceed with the redundancies of 15 or more employees, the employer must notify Australia's social services department, Centrelink, of its decision to implement the proposed change.

Schedule/ timeline procedure CLO/closure

- 1 Planning**: Consider the business case for implementing redundancies (including calculation of notice and redundancy payments) and consider contingency arrangements. Plan communications strategy.
(Timeframe: As long as necessary – 2 weeks may be appropriate)
- 2 Notification**: Notify each applicable TU of:
 - the proposed dismissals and the reasons for them;
 - the number and categories of employees likely to be affected; and
 - the time at which the employer intends to carry out the dismissals.*(Timeframe: Notice to be provided as soon as practicable after making the decision and before implementing any redundancy decisions.)*
- 3 Consultation**: Provide each of the notified parties an opportunity to consult the employer on measures:
 - to avert or minimize the proposed dismissals; and

- An employer can offer Pilon, if allowed by contract.
 - Redundancy payments also depend on the employee's length of continuous service and are paid at the employee's base pay rate for ordinary hours worked:
 - 1-2 years of continuous service: 4 weeks' pay;
 - 2-3 years: 6 weeks' pay;
 - 3-4 years: 7 weeks' pay;
 - 4-5 years: 8 weeks' pay;
 - 5-6 years: 10 weeks' pay;
 - 6-7 years: 11 weeks' pay;
 - 7-8 years: 13 weeks' pay;
 - 8-9 years: 14 weeks' pay;
 - 9-10 years: 16 weeks' pay; and
 - 10+ years: 12 weeks' pay.
 - An enterprise agreement or an employment contract may provide for a longer notice or greater redundancy payments than those outlined above.
 - In addition to the redundancy payments described above, an employer must also pay to the employee any accrued entitlements (e.g. holiday) and outstanding pay up to, and including, their last day of employment.
- to mitigate the adverse effects of the proposed dismissals (such as finding alternative employment).
(*Timeframe: 1-2 weeks*)
 - 4 **Decision to proceed:** if management decides to proceed, employees to be consulted with and then provided with notice of termination.
(*Timeframe: 1-2 weeks*)
 - Importantly, if the relevant employees are covered by a modern award or enterprise agreement, employees have a 'right' to consultation including a right to be told of the reasons for the redundancies, the impact upon their roles and any measures considered to avoid the redundancies. Significantly also, employees have a right to have their views on the matter heard and considered.

I/C + other rights of in-house bodies of employee participation or third parties

- As set out in the adjoining column, I/C rights of employee associations/third parties include:
 - right to receive information on business rationale and redundancy arrangement plans;
 - right to be provided with an opportunity to consult the employer on alternative measures to avert or minimise the proposed dismissals and measures (such as finding alternative employment) to mitigate the adverse effects of the proposed dismissals.
- Joint closure of I/C stage is highly recommended
- Neither authorization required nor blocking rights from external bodies or agencies, administration to proceed with the proposed change.
- However, the Fair Work Commission can order that the employer consult with employees' associations if satisfied that there has been a failure to notify or consult. It cannot, however, make orders, including orders to reinstate employees, pay an amount in lieu of reinstatement or provide severance pay, simply because of a lack of consultation. Such orders can only be made if employees lodge unfair dismissal claims.

Usual severance package/social plan features (+ cost assessment)

- The entitlements which are available in cases of individual redundancies (discussed under the heading 'Outline basic redundancy rights') also apply to collective redundancies and mass layoffs.
- In Australia, redundancy pay is the same as severance pay.
- To mitigate any potential claims alleging unfair dismissal or breach of contract, the employer may wish to offer ex-gratia payments, in addition to any contractual and statutory entitlements, as consideration for employees signing a deed of release.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Minimum 1 month process, incl preparation stage.

Cost

The key cost is the amount paid to employees in redundancy and other outstanding payments, but additional costs may arise if employer is involved in protracted disputes with relevant employee associations and negative media publicity (in high profile cases) can have an impact on business revenue. Employee morale can also be affected in these circumstances which can impact on the business' levels of productivity.

Risk of disruption

Industry and workplace specific. Redundancies almost always creates a level of disruption in a business, but the level of disruption will depend on the business' adaptability to change, the quality of its management, the unionization of its workforce and the nature of the industry (e.g. strikes are more common in certain industries, such as aviation/manufacturing).

Belgium



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination can be on notice or with payment in lieu of notice ('Pilon') at employer's choice ((1) + (2) below)
- 1 Indefinite term contracts concluded after 1 January 2014, notice depends solely on length of service:
 - 1st year, 7 weeks' notice, plus
 - 2nd year, 4 weeks' notice, plus
 - as of 3rd year, 3 weeks' notice/commenced year
- 2 Indefinite term contracts pre-2014 (as at 31 Dec 2013) + above:
 - blue-collar: determined by CBA (X weeks/5-year period of service)
 - white-collar: either 3 months/5-year service period commenced for lower paid, or 1 month/commenced year of service with min 3 months, or for highest paid contract clauses as agreed
- For Pilon, annual compensation includes salary and all ongoing benefits
- Other exit payments are due (13th month, exit vacation pay) and certain services can be mandatory (outplacement for certain employees up to €5,500)

Concepts CLO and closure

- **CLO:** for procedural purposes, redundancies of threshold number of employees within any rolling 60-day period: threshold is 10 or more for businesses with 20 – 99 employees, 10% for businesses with 100 – 299 employees, and 30 or more employees for businesses with +300 employees
- **Closure:** definitive (not temporary) stoppage of main business activity + reduction in workforce of +75% compared to previous calendar year, either at plant level (only for 20+ employees), or at department/division level
- In specific industries, particular rules exist for multiple redundancies: procedures of I/C to be observed, sanctioned with additional financial liability (e.g., 3-6 months' compensation)

Schedule/ timeline procedure CLO/closure

- Preparation stage (with 4 C's – business case, communication, cost computation, contingency planning) – preferably 6 – 8 weeks
- Kick-off meeting in WC with intention to proceed (or with TU delegates, if no WC, or town hall if no TU delegate either)
- Consecutive I/C meetings in WC –open-ended, but on average 2-3 months
- End of I/C procedure + management decision to proceed
- *Cooling-off period* for collective bargaining (no redundancies allowed) – 30 days with maximum extension for another 30 days
- *Implementation stage covering:*
 - setup of redeployment cell (incl outplacement services offer, 1 month)
 - lifting of protection of ERs (2 months)
 - securing soft landing system (2-3 months for certification by Gov't)

I/C + other rights of in-house bodies of employee participation or third parties

- I/C rights of WC include
 - in-depth information on business case (no assistance of any TU expert allowed)
 - assessment and opinion on business case (incl alternative measures to mitigate impact of planned restructuring)
 - advice on selection criteria of affected employees
- Joint closure of I/C stage is highly recommended – open-ended so WC leverage on I/C end
- No decision required nor allowed from internal bodies
- No veto nor blocking rights from internal bodies
- No authorization required nor blocking rights from external bodies or agencies, administration to proceed with transaction
- But, Gov't certification required for the implementation of social plan (redeployment cell, lifting of protection, soft landing regimes)

Usual severance package/social plan features (+ cost assessment)

- Typical scope would exclude affected management-level employees and executives
- Beyond legal entitlements (see left), a social plan would contain supplementary financial and non-financial benefits
- Focus is still on financial package and add-ons, with bonuses rewarding loyalty, supplements on top of unemployment etc
- Recent practice shows attention to 'flexicurity' approach, with training budgets, temporary moves to newly created lower-paid jobs, and incentives for starting their own business
- Special attention is usually given in regulations and corporate practice to affected older employees with soft landing systems and to ERs and their statutory protection against dismissal

FTO impact assessment (duration, cost, risk of disruption)

Duration / timing

Minimum 4-6 month process, incl preparation stage (6-8 weeks), given that the I/C process is open-ended and quite unpredictable;

Cost

Well beyond legal entitlements. The final cost is impacted by variables such as industry specifics, TU power, vulnerability to conflict or media attention, meaning that final cost can be up to 1.3 times or even 1.5 times the cost of legal entitlements

Risk of disruption

Depends on a variety of factors like overall quality of industrial relations, history of change, nature of business and workforce (industrial/services/high tech), impact of TUS, among others. Risk of violence is minimal, but strikes are more common depending on industry.

China



Government aid and recession resources

CV crisis impact

Temporary closure and government aid:

HW possible if agreed upon or required by the government and adequately compensated. Salary shall be paid to employees as if they were in normal attendance.

Employers may arrange employees to use paid leaves such as annual leave set up by the employer. Employees shall be notified of such arrangements in advance and be paid on fully basis.

Employers may order employees not to work, provided that employees consent to this arrangement. However, employers are still required to pay salary to employees during the period of suspension. During the first month of suspension, full salary should be paid. Starting from the second month and onwards, the salary standard varies from different location. For example, in Shanghai, employees should be paid not less than the minimum salary in Shanghai.

Government aid program including exemption or extension of social insurance contribution, extension of tax payments, repayment of unemployment insurance, social insurance subsidy, training fee subsidy, exemption or reduction of property rent fees, extension of bank loans might apply, especially to SMEs in financial difficulties caused by CV, depending on local regulations.

For more information click [here](#).

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

Employers with no lay-offs or whose lay-off ratio is not higher than the prescribed standard, may apply for a lump-sum employment stabilization subsidy and/or repayment of unemployment insurance as prescribed by local regulations.

If an employee is unable to perform job duties due to being quarantined as a result of a COVID-19 diagnosis, or under mandatory medical observation or other emergency arrangements implemented by the Government, the employer may not terminate such employee for non-fault reasons or engage in mass lay-off (i.e. lay-off of more than 10% of the entity's employees) involving the employee until they are no longer under the above circumstances. In Beijing, the above restriction also applies to employees in Beijing who are unable to perform job duties due to nursing their underage children during the COVID-19 school closures.

Recessionary measures - CLO and closure

Outline basic redundancy rights

Mass lay-off

- Employers may initiate mass lay-offs only under one of the following circumstances:
 - 1 the employer undergoes a reorganization in accordance with the PRC Enterprise Bankruptcy Law;
 - 2 the employer experiences significant difficulties in its business operations;
 - 3 the employer switches production, makes major technological innovations, adjusts its business model, and after modifying its employment contracts, still needs to lay off employees; or
 - 4 the employer has experienced other significant changes that modified the economic circumstances which formed the basis for it having agreed the employment contracts, and it is no longer unable to perform under the contracts.
- 30-day's prior notice to all its employees and/or the TU (if exists) must be given in a mass lay-off. The lay-off plan should be filed with the local labour authority and the employer should obtain their approval before the lay-off.
- The following employees shall be given priority to be retained in a mass lay-off: (i) persons who have concluded fixed-term employment contracts for a relatively long term with the employer; (ii) persons who have concluded open-ended employment contracts with the employer; (iii) persons, none of whose family has a job, or who have an

Concepts CLO and closure

- **CLO ('Mass lay-off')**: an employer reduces its workforce by 20 or more employees; or an employer reduces its workforce by more than 10% of its entire workforce.
- A mass lay-off is treated as a unilateral termination by the employer under Chinese employment law.
- If an employee is unable to perform job duties due to being quarantined because of a CV diagnosis, or under mandatory medical observation or other emergency arrangements implemented by the Government, the employer may not terminate such an employee for non-fault reasons or engage in mass lay-off involving the employee until they are no longer under the above circumstances.
- Closure: due to bankruptcy, revocation of business license, shareholders' decision to deregister or otherwise ordered to cease operations.

Schedule/ timeline procedure CLO/closure

- A mass lay-off requires a rigorous process as below:
 - 1 the employer must first give TU or all employees 30-day notice and consult for their opinions;
 - 2 upon the expiry of the 30-day notice, the employer can then file the lay-off plan to the local labour authority; and
 - 3 after the labour authority indicates that the filing is complete, the employer can then terminate the employees.
 - 4 In practice, the whole process will last for at least 3-4 months.
- *Closure (under a self-determined deregistration case)*: normally after the shareholders' resolution on company closure is issued and the company has filed a report to the local commercial bureau, the company should notify all employees of the decision (no requirement on notice).

dependant relying on the employee's support. If the employer is rehiring within 6 months, the laid-off employees shall be notified and given priority.

Individual Termination

- Where a material change in the objective circumstances (job redundancy can be deemed such a change in some provinces of China) relied upon at the time of conclusion of the contract renders it impossible for the parties to perform and, after consultation, the employer and the employee are unable to reach an agreement on if/how to amend the contract, the employer is entitled to terminate the contract by giving the employee a 30-day prior written notice or one month's salary in lieu of notice, in addition to the economic compensation payable by the employer to the employee.

I/C + other rights of in-house bodies of employee participation or third parties

- *Mass lay-off*: at least 30 days before initiating a mass lay-off, the employer must present its lay-off plan to the TU or to all of its employees, and solicit their opinions.
- *Closure (under a self-determined deregistration case)*: the TU or employees cannot prevent a shareholders' resolution on deregistration from taking effect unless the company is a state-owned company.

Usual severance package/social plan features (+ cost assessment)

- *Payment or accrued wages and benefits*: current wages x number of days in last wage period before termination.
- *Statutory minimum severance*: one month of the employee's average monthly salary for each year of their service ('**Average Monthly Income**'). The Average Monthly Income should be calculated based on their total salary over the past 12 months prior to the termination date and should include base salary, bonuses, allowances, commissions, benefits, overtime payments and any other salary paid in cash. If the period of service in a relevant year is less than 6 months, a half month's Average Monthly Income will need to be paid as severance payment for that year. For service years after 2008, the Average Monthly Income is subject to a statutory monthly cap (currently 3 times the local average wage which varies by region).

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

In practice, the whole process lasts for at least 3-4 months.

Costs

Illegal dismissal: An employer may request the labour arbitration commission/court to confirm that the employer's unilateral dismissal is illegal. If successful, the employer will be required to (i) pay damages equal to two times of the financial compensation for the unlawful termination; or (ii) rehabilitate the employment contract

- *Compensation for unused holidays*: the compensation of unused statutory holidays is calculated based on 200% of daily wage, and how to compensate the company holidays depends on the employer's rules.
- *Payment in lieu of 30-day prior notice* in a unilateral termination case due to individual lay-off, i.e. material change of objective circumstance.
- *Any other amounts due under contract*: e.g. bonus, commission, etc.

with the employee, with back pay of the employee's salary and social insurance during the unlawful termination period.

Risk of disruption

Strike: Where there is a strike in relation to employee benefits and rights, the judicial authorities are usually more protective of the employees, and often uphold claims of termination without legal cause if the employer terminates the employees for organising or participating in the strike.

Czech Republic



Recessionary measures - CLO and closure

Outline basic redundancy rights

- **Termination for redundancy** is possible only if the following requirements are met:
 - the employer or the employer's competent body has decided to change the activities (tasks), plant and equipment, to reduce the number of employees for the purpose of increasing labour productivity (efficiency) or to introduce other organizational changes (restructuring); and
 - an employee has become redundant as a result of the adopted decision on the organizational change.
 - The termination ground (i.e. termination for redundancy) as well as the organizational change that resulted in the redundancy must be specified in the written termination notice;
 - The employment will terminate after the statutory 2-month notice (unless a longer period has been agreed) which shall commence on the first day of the calendar month following the receipt of the termination notice;
 - The employment may also be terminated by a mutual written agreement;
 - If the employment is terminated on grounds of the employee's redundancy (whether by a

CLO and closure

- **CLO/closure:** Specific rules governing collective dismissals will apply if, within a period of 30 calendar days, the employer dismisses on grounds of redundancy (or if the employer's undertaking, or its part, is closed down) at least:
 - a) 10 employees where the employer employs from 20 to 100 employees;
 - b) 10% of employees where the employer employs from 101 to 300 employees; and
 - c) 30 employees where the employer employs more than 300 employees.
 - If the employer dismisses at least 5 employees, the total number of employees pursuant to points (a) to (c) above shall also include those employees with whom the employment relationship was terminated by an agreement;
 - The employer is obliged to inform and consult the TU organization and WC and notify the respective Labour Office (please see the respective columns).

Schedule/ timeline procedure CLO/closure

- The process should start with the *internal decision* on the organizational change that results in the redundancy of certain employees (or decision on closing down the business);
- The TU organization and WC (or the affected employees) shall be *informed* about the intended collective dismissals in time and at least 30 days before the first termination notice is served;
- At the same time, the employer also notifies the respective Labour Office;
- After the TU organization and WC have been informed about the intended dismissals, the *consultation phase* begins;
- The *written report* on the employer's decision on collective dismissals and on the results of consultation with the TU organization and WC must be delivered to the respective Labour Office **no later than 30 days** before the lapse of the first notice (if it is delivered later, the employment of the affected employee will terminate on the expiry of **30-day period following** the delivery of the employer's written report).

unilateral termination notice or a termination agreement), the employee is entitled to statutory severance pay the amount of which depends on the length of the employment relationship – please see the respective column.

I/C + other rights of in-house bodies of employee participation or third parties

- employer shall in time, but no later than 30 days in advance (i.e. before serving the first termination notice), inform the TU organization and the WC about the intended collective dismissals;
- The information shall be provided in writing and shall also include:
 - reasons for collective dismissals;
 - number and professional qualifications of employees to be made redundant;
 - number and professional qualifications of all employees employed by the employer (by the employer's undertaking);
 - period within which collective dismissals are planned to take place;
 - criteria proposed for selecting employees to be made redundant; and
 - redundancy payment (i.e. severance pay) and other rights of the employees being made redundant.
- The employer shall also consult the TU organization and WC in order to reach an agreement, in particular, with regard to measures aimed at prevention/reduction of collective dismissals, the mitigation of their adverse implications for employees, especially the possibility of their placement on suitable positions at other employer's workplaces (sites)

Usual severance package/social plan features (+ cost assessment)

The minimum statutory severance pay amounts to:

- 1 one times the employee's average earnings if the employment relationship lasted less than 1 year,
- 2 twice the average earnings if the employment relationship lasted at least 1 year and less than 2 years, or
- 3 3 times the average earnings if the employment relationship lasted at least 2 years.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

- Minimum 3-4 month process.

Cost

- Minimum costs are the statutory severance pays.

Risk of disruption

- Depends on the nature of the business; if the statutory procedure is strictly followed, the risks are minimized. In particular, the employer must properly submit all the required notifications, and if the ground for the dismissals is redundancy, it must be properly justified – otherwise, the dismissals could be easily challenged.
- The negotiation with the TU organization might be rather difficult in certain cases.

- Consent of the TU organization and WC is not required to proceed with the collective dismissals – the aim of the consultation with the TU organization and WC is to reach agreement, but the validity of the prepared measures does not require their consent
- In addition, the employer shall concurrently inform in writing the respective regional branch of the Labour Office, in particular, of the reasons for the intended measures, the total number of employees and the number and professional structure of those employees affected by the measures, the period within which the collective dismissals will take place, the criteria proposed for the selection of employees to be made redundant and also the commencement of consultation with the TU organization and WC;
- One copy of the written information delivered to the Labour Office shall be delivered also to the TU organization and another to the WC;
- Following the consultation, the employer shall provably deliver to the respective regional branch of the Labour Office a written report on its decision on collective dismissals and on the results of consultation with the TU organization and WC – no later than 30 days before the lapse of the first notice;
- The report shall specify the total number of employees and the number and professional structure of those employees affected by the collective dismissals. Copies of this report shall be delivered to the TU organization and to the WC – they each have the right to give their independent opinion on the employer's written report and deliver it to the Labour Office;
- Where neither a TU organization nor a WC has been formed at the employer's undertaking, the employer shall fulfil its duties in relation to every employee affected by the collective dismissals;
- In any case, the employer shall inform the affected employees of the date of delivery of the written report to the Labour Office.

Denmark

CV crisis impact

Temporary closure and government aid:

HW is possible if instructed by the employer and if a notice has been provided (under the assumption that this is possible in the specific position). As a main rule, the notice should be reasonable (normally 7-10 days). However, in some cases the change can be considered as a “significant change to the employment”. If so, the employee is considered as terminated and offered the same position under the new terms. In this case, the notice must correspond to the notice of termination and the change will not come into force until after the end of the notice.

Employees will remain entitled to full salary and benefits in accordance with their employment contract and applicable laws and CBA(s) when working from home.

Furthermore, employees working from home at more than two days per week in average during over a 4-week period, is also subject to the Danish Work Environment Act, hence the workplace at home must also be considered safe and properly arranged in regard to equipment, light, chair etc.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination must be with notice pursuant to either the Danish Salaried Employees Act for salaried employees (office employees, shop employees, non-executive managers and similar) and for blue collar employees pursuant to the CBA in force for the employment (if any) or as agreed in the contract.
- For salaried employees, the statutory notice depends on the length of service at the time of the termination:

Concepts CLO and closure

CLO ('mass redundancy'):

- if, during a 30 days' period, the employer is contemplating terminating:
 - At least 10 employees in establishments normally employing more than 20 and less than 100 employees.
 - At least 10 percent of the number of employees in establishments normally

Schedule/ timeline procedure CLO/closure

CLO (mass redundancy):

The following steps must as the main rule be followed after having declared that the redundancy qualifies as a mass redundancy:

- 1 Identification of employees at risk and their employment and termination terms.
- 2 Information meeting with all employees (both in scope and other employees) – staff announcement

- Up to 5 months' service: 1 month notice (to the end of a month),
 - Up to 2 years and 9 months' service: 3 months' notice (to the end of a month),
 - Up to 5 years and 8 months' service: 4 months' notice (to the end of a month),
 - Up to 8 years and 7 months' service: 5 months' notice (to the end of a month),
 - And, subsequently, 6 months' notice (to the end of a month)
 - Salaried employees are entitled to a seniority-based *severance pay* of 1 or 3 months' salary if terminated with at least 12 or 17 years of service (cf. the Danish Salaried Employees Act section 2a).
 - In a redundancy situation, the employer is generally free to choose between who to keep and who to terminate.
 - For employments covered by CBAs, employees with at least 25 years of seniority are however specially protected and should be terminated last. Also, other groups of employees are specially protected, for example employees on maternity/parental leave (or employees who have informed they are intending to go on maternity/parental leave in the future); disabled employees or members of works councils, members of work environment councils (compelling reasons are required))
- employing at least 100 but less than 300 employees.
- At least 30 in establishments normally employing at least 300 employees
 - If these limits have been reached and the terminations are covered by the Danish Act on Mass Redundancies, the procedure in the Danish Mass Redundancy Act must be followed. An employer cannot avoid the Act by offering some of the employees a severance agreement, if 5 or more employees are not offered a severance agreement. Thus, if the employer doesn't give at least 5 employees a severance agreement, also the employees offered a severance agreement must be counted in.
 - If the CLO *does not* qualify as a 'mass redundancy' as defined above, there is no statutory process for the redundancy unless a specific procedure is described in a CBA in force (if applicable).
 - (Danish employment legislation does not recognize or specify the concept of 'closure' as such.)
- including recommendation to the employees to elect representatives within 2-3 days.
- 3 Consultation/negotiation carried out:
- Min. 21 days if at least 50% of 100 employees or more are intended to be dismissed
 - No minimum time if this threshold is not met
- When beginning the consultation/negotiation, the employer must provide all employees or elected representative(s) (if such are elected), with all relevant information relevant to the case and provide a written information with a no. of mandatory information pursuant to the Act.
- Simultaneously, the employer must forward a copy of the message/written information to the Regional Labour Market Council (Notification letter no. 1).
- 4 Finalize consultation / negotiation and file information to the Regional Labour Market Council (Notification letter no. 2) that the consultation/negotiation has ended.
- 5 As soon as possible and no later than 10 days after the above notification letter no. 2 has been sent, file information with the Regional Labour Market Council (Notification letters no. 3 and 4 combined) regarding which employees will be dismissed (and the terms offered/agreed) and the final result of the consultation/negotiations.
- Simultaneously the employees must be informed about the terminations in writing.
- Note: Individual notices of termination cannot become effective until after 30 days after the completion of the consultancy period (this is in reality a minimum individual notice and thus runs parallel to the individual notice). If at least 50 % of 100 employees or above are intended to be dismissed, then it is at least 8 weeks.

I/C + other rights of in-house bodies of employee participation or third parties

- If the redundancy qualifies as a mass redundancy under the Danish Mass Redundancy Act, it is recommended (but not required) to have the employees elect one or more representatives (if not already appointed/elected) to consult/negotiate in the process. There are no statutory requirements for the representative election procedure, and it is up to the employees how to handle this procedure. The employer should give the employees time (we advise 1-2 days) and resources to elect the representatives. Often it will make good sense to propose that the shop steward or working environment representative(s) who are already elected, to also take this representative role in a consultation process (provided that the employees agree).
- In addition, there can be additional requirements stated in the CBA in force (if applicable).
- I/C rights of employees or elected representatives (if any) include:
 - the reasons for the projected redundancies;
 - the number of employees to be made redundant, the relevant categories they belong to and the period over which the redundancies are to take place;
 - the number of employees normally employed at the company, and the categories to which they belong;
 - the criteria proposed for the selection of the employees to be made redundant in so far as

Usual severance package/social plan features (+ cost assessment)

- In addition to the legal entitlements (see left), a severance package will contain:
 - Provisions on whether the employee is required to work during the notice or put on garden leave (if so, the employer often waives the right to offset income earned from new employment during garden leave*) against a full and final settlement
 - Proportional bonus payment (cf. the Danish Salaried Employees Act section 17a)
 - Stock options depending on the terms in the relevant stock option plan
 - Settlement of accrued and unused holiday allowances to the Danish Holiday Fund
 - Additional severance payments - if offered
 - Outplacement – if offered
 - Mandatory terms pursuant to CBA in force (if applicable)

(*): The employer may offset against the claim for salary earned from new employment during garden leave. For salaried employees: not for the first 3 calendar months.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

A CLO/redundancy can be carried out (depending on the length of the consultation/negotiation) within 1-2 months (shorter if less than 50% out of 100 employees or more).

Cost

The cost in relation to the terminations depends on the number of employees.

Risk of disruption

There is only a minor risk of disruption as the purpose of the consultation/negotiation is to mitigate to the extent possible and seek to find solutions which will limit the number of employees terminated. Thus, it is not a requirement that the parties agree to the terms and the employer can go ahead with the redundancy regardless after a period of time (i.e. after consultation/negotiation have been carried out).

permitted by the law and / or practice that has the power to do so; and

- whether the employees who are being proposed for redundancy include employees who have access to redundancy payments provided by individual or collective agreement, and if so, how these allowances are calculated.

Finland



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Indefinite employment contract can be terminated by giving notice on financial, production related or reorganisation grounds*. If the notice is not agreed, the employer must apply the statutory notice periods based on employees' length of service:
 - Up to 1 year of service: 14 days' notice
 - 1 to 4 years' service: one month
 - 4 to 8 years' service: 2 months.
 - 8 to 12 years' service: 4 months.
 - Over 12 years' service: 6 months.
- (*): Grounds for termination - Proper and weighty reasons are required. Work levels must be diminished due to financial or production-related reasons or due to a reorganisation of operations AND the reduction of work must be substantial and permanent AND the employee cannot reasonably be repositioned or retrained AND before termination or thereafter the employer has not employed a new employee for similar duties if the employer's operating conditions have not changed during the equivalent period.

Concepts CLO and closure

- **CLO ('Redundancy')**: See column on 'Schedule/ timeline procedure CLO / closure'.
- (Finnish employment legislation does not recognize or specify the concept of '**closure**' as such.)

Schedule/ timeline procedure CLO/closure

- If terminations are to be completed on these grounds, the procedure to be followed is determined by the size of the employer and number of employees being terminated.
- Where the employer has less than 20 employees:
 - Prior to terminating the employment contract on financial and production related grounds, the employer must explain to the what the grounds for termination of employment are, and the alternatives.
 - If the termination concerns more than one employee, the explanation may be given to a representative of the employees or, if no such representative has been elected, to the employees jointly.
- Where the employer has at least 20 employees (CBAs may apply and change this threshold number):
 - Change negotiations (also known as co-operation negotiations) are needed prior to making any decision on the matter (essentially, an employee hearing process on grounds, effects of the planned RIF and possible alternatives). The process lasts from 14 days up to 6 weeks, depending on the amount of the RIF.

- A written proposal for negotiations must be given at least 5 days in advance of the start of the negotiations.
- Generally, if the planned terminations concern several employees, the co-operation negotiations shall be held with a personnel representative.

I/C + other rights of in-house bodies of employee participation or third parties

- See column on 'Schedule/ timeline procedure CLO / closure'.
- Despite co-operation obligations and the employees' or their representatives' rights to be heard, the employer makes the final decisions on the matters (employees do not have veto rights).

Usual severance package/social plan features (+ cost assessment)

Costs in situation of redundancy

- No statutory obligation to pay severance. No possibility for Pilon if not agreed with employees.
- Accrued but untaken holidays and other possible outstanding costs must be paid.
- In certain cases, mandatory obligations to provide occupational health care services for the employees who are made redundant continue after the end of employment.
- In certain cases, mandatory obligation to provide coaching or training to employees made redundant.
- Obligation to re-employ the redundant employees four or six months after end of employment, depending on tenure, where the employer is looking to rehire for the same or similar work as previously performed by the dismissed employee in that period. The time period is subject to change by the CBA, where applicable.
- Possible compensation in case of termination without legal grounds AND/OR failures in co-operation negotiation process.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Depends on the size of the company and number of employees being made redundant or temporarily laid off.

Duration from one day + notice to over 6 weeks + notice.

Costs

Depends on each situation but as a starting point the costs are in accordance with the legal entitlements (see relevant column).

Risk of disruption

Depends on a variety of factors like overall quality of industrial relations, nature of business and workforce.

France



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Statutory severance pay (if the employee has over 8 months length of service): the amount is calculated in line with the applicable CBA and varies according to the employee's length of service, ranking and age.
- Pilon: Employees who are made redundant are entitled to Pilon, generally between 1 and 3 months depending on the employee's position and length of service.
- Pay in lieu of holiday: any accrued and outstanding paid holiday will need to be compensated.
- Extension of private health insurance coverage up to a 12 month period.
- Collective redundancies of at least 10 employees will trigger substantial additional costs relating to additional support measures (e.g.: outplacement, relocation cost, training, additional severance, etc.).

Concepts CLO and closure

CLO ('collective redundancy'): can only be implemented (i) with a genuine economic rationale and (ii) if there are no alternative redeployment opportunities within the company in France.

The choice of targeted employees must be based on objective criteria assessed by professional category (with a prior WC consultation on the definition of these criteria, which generally include age, seniority, number of children and professional skills).

Schedule/ timeline procedure CLO/closure

CLO of less than 10 people:

- Requires prior *information-consultation* of WC, if any. WC has 1 month to provide its opinion.
- All impacted employees are invited to an individual preliminary meeting. If no redeployment opportunities are identified, notice of termination can be served at least 7 days after the meeting.
- The labour administration must be *informed* of the redundancies within 8 days after their notification.

CLO of at least 10 people:

Companies with less than 50 employees:

- Requires prior *information-consultation* of WC (at least 2 meetings separated by a maximum of 14 days). The business must provide measures to avoid/limit redundancies and facilitate the redeployment.
- The labour administration must be kept *informed* and has 21 days to check that legal obligations have been complied with.

- Termination letters can only be sent after a 30 day period has elapsed following the notification of the project to the labour administration. This time frame is often delayed by observations made by the labour inspection.

Companies with 50 employees or more:

- Must provide a *social plan* to avoid/limit redundancies and facilitate redeployment. Plan is either negotiated with the TU representatives or implemented unilaterally by the employer, and provided to the labour authorities for validation.
- The WC must be *consulted*. They have specific time periods to issue their opinion, between 2-4 months (dependent on the number of proposed redundancies).
- The content of the social plan must be *ratified* by the labour authorities. This ratification process takes:
 - 15 days if a collective agreement has been entered into;
 - 21 days if no agreement is reached (with a more in-depth review).

I/C + other rights of in-house bodies of employee participation or third parties

- WC is provided with the following information:
 - Economic, financial, technical grounds for the considered redundancy project
 - Number of employees within the company

Usual severance package/social plan features (+ cost assessment)

- Beyond legal entitlements (see left), a social plan would contain supplementary financial and non-financial benefits
- The aim of a social plan is to facilitate redeployment both internally and externally, so as to limit the number of redundancies. The

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

2 to 6 months, depending on company headcount and number of redundancies envisaged. The timeframe to implement the process will be longer

<ul style="list-style-type: none"> - Number of employees targeted by the redundancy project - Professional categories targeted by the redundancy project - Selection criteria - Considered timeline for implementation of the project - Support measures proposed by the company - Consequences of the project in terms of health and safety, and working conditions - Terms and duration of redeployment leave - (if > 10 employees): Supporting measures proposed to avoid/reduce the number of redundancies and to redeploy at-risk employees. • No veto nor blocking rights from internal bodies. • Control and validation of the procedure by the labour authorities. 	<p>measures included in the social plan should be tailored to the employee population and the group's financial resources.</p> <ul style="list-style-type: none"> • Relevant measures include: <ul style="list-style-type: none"> - State redeployment programme (“contrat de sécurisation professionnelle” or “congé de reclassement”). - Relocation and mobility support - Outplacement services - Training - Business creation assistance - Optional additional severance 	<p>for protected employees (authorization from the labour inspector must be sought).</p> <p>Cost</p> <p>Each employee would be entitled to their statutory entitlements, plus potential additional costs relating to the measures required to limit redundancies and facilitate redeployment.</p> <p>Based on previous experience average social plan redundancy costs range from 50K€ to 100K€ per employee, excluding litigation exposure.</p> <p>Risk of disruption</p> <p>Depends on a variety of factors like overall quality of industrial relations, history of change, nature of business and workforce (industrial/services/high tech), influence of TUs. The risk of violence is minimal, but strikes are more common depending on industry.</p>
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Germany

Government aid and recession resources



CV crisis impact

Temporary closure and government aid:

- HW possible if agreed upon and adequately compensated;
- In case of quarantine of an individual person announced by the authorities under the German Infection Protection Act (IfSG), the individuals would be entitled to compensation (for up to 6 weeks in the amount of the lost earnings and afterwards in the amount of statutory sick pay). No compensation will be paid if the quarantine requirement is due to an avoidable journey made by an unvaccinated person, and a vaccination required by law or publicly recommended in the place of usual residence could have avoided the requirement for quarantine. For the initial 6 weeks this compensation will be paid out by the employer, which can claim reimbursement from the authorities. After the initial 6 weeks, compensation will be paid directly by the authority. In the event of a government-imposed closure of a solely owned and operated business, which is not accompanied by an individual COVID-19 infection of the owner, there is no entitlement to compensation.
- Short-time work (“Kurzarbeit”) may be introduced for the entire company or part of the company (under a CBA, works agreement or agreement with the employees) in order to reduce the employee’s working time (down to zero hours). Salary is reduced accordingly. In addition to the salary for hours worked, employees receive short-time work compensation in the amount of 60-67% of their reduced net salary (“Kurzarbeitergeld”). Until 30 June 2022, on a temporary basis, short-time work compensation increases to 70 – 77 % from the fourth month of short-time work and 80 – 87 % from the seventh month of short time work, provided the wage lost due to the reduction in working time is at least 50%. It must be paid by the employer, who will be reimbursed by the employment agency (where at least 10% of the workforce is affected by work loss due to CV, a notification of short-time work has been filed, existing positive working time balances are reduced to zero and the employee is subject to SSC).
- Companies with a global turnover of up to EUR 750 million in 2020, solo self-employed persons in all sectors for the eligibility period January 2022 to June 2022 are eligible to apply for bridging assistance from the state if they have suffered a COVID-19-related drop in turnover of at least 30 per cent in any month of the eligibility period compared to a reference month in 2019.

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

- Giving notice during short-time work is allowed – without further restrictions – for behavioral or personal reasons; termination for operational reasons is also allowed, if the employer proves that additional or changed circumstances have occurred for the termination which go beyond the initially assumed temporary lack of work (a CBA/shop agreement may provide different provisions).
- Cancellation of short-time work compensation: In principle, the individual’s entitlement to short-time work compensation does also not prohibit giving notice. However, if a termination is pronounced, it becomes apparent that the loss of work is not only temporary and, as a result, the entitlement to short-time work compensation lapses.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- The termination of an employee employed for more than 6 months in a business premises in which more than 10 employees regularly work, must be justified by a specific 'operational' reason, such as a (permanent) loss of workload. The employer must establish a re-organization decision based on CV. However, which employees can be made redundant based on this decision is subject to a social selection process.
- Statutory notice depends on the length of service (please see below). However, if contractual or CBA notice periods are longer than the statutory notice, the contractual or CBA notice periods will apply:
 - Less than 2 years' service: Both parties are entitled to 4 weeks' notice (which has to expire either on the 15th or at end of a calendar month);
 - 2 to 5 years' service: One months' notice (expiring at the end of a month);
 - 5 to 8 years' service: 2 months' notice (to the end of a month);
 - 8 to 10 years' service: 3 months' notice (to the end of a month);
 - 10 to 12 years' service: 4 months' notice (to the end of a month);
 - 12 to 15 years' service: 5 months' notice (to the end of a month);

Concepts CLO and closure

CLO: redundancies with threshold of employees within any rolling 30-day period: more than 5 for businesses with 21 – 59 employees, 10% or more than 25 for businesses with 60 – 499 employees and at least 30 for businesses with 500+ employees. The employer must notify the Federal Employment Agency of CLO before issuing the notices, otherwise the notices are void. Reconciliation of Interests/Social Plan must be negotiated with the works council

Closure: non-temporary dissolution of the business organization or essential parts thereof and cessation of the purpose of the business; parts of the business are considered essential provided that the threshold of employees for CLO are employed therein. Reconciliation of Interests/Social Plan must be negotiated with the works council

Schedule/ timeline procedure CLO/closure

- *Preparation stage* (with 4 C's – business case, communication, cost computation, contingency planning) – preferably 4 – 8 weeks
- Where economic committee and/or disabled persons' representative body exists: handing over all information on the intended lay-off or closure; oral information on the intended measure;
- Where WC exists: WC information about intended CLO or closure; negotiation of balance of interests and social plan with WC (which provides for severance payments) – open-ended, but on average 3- 6 months
- Notice to employment agency of intended CLO – not earlier than 2 weeks after information of WC
- *Implementation stage:*
 - If applicable: application to the respective authorities for approval to terminate the employment of employees who enjoy special protection against dismissal (parental leave, maternity protection, severely disabled employees)
 - Consultation of WC one to two weeks before serving notice
 - Provable service of a termination letter in writing.

- 15 to 20 years' service: 6 months' notice (to the end of a month); and
- More than 20 years' service: 7 months' notice (to the end of a month).
- In case of CLO the employer must negotiate a social plan with the WC (which provides for severance payments).
- Otherwise, employees are entitled to receive their agreed salary until the end of employment and during the notice period but are not generally entitled to additional payment. However, in settlement agreements, severance payments are often agreed upon to prevent employees from challenging the validity of the dismissal in court.
- Severance payments are calculated using the following formula: *years of service x monthly salary x factor*. The factor normally varies between 0.5 and 1.5.

I/C + other rights of in-house bodies of employee participation or third parties

- Information of economic committee and disabled persons' representative body if existing
- I/C rights of WC include:
 - information on reasons for redundancies
 - information on selection criteria of affected employees
 - information on criteria for calculation of severance payment
 - advice on alternative measures to avoid or limit redundancies

Usual severance package/social plan features (+ cost assessment)

- Typical scope would exclude affected management-level employees and executives
- Since no legal entitlement for severance payment exists, a social plan usually provides for severance payments based on the outlined formula (see above) and other financial and non-financial benefits such as outplacement-advice
- It is also common to offer the participation in volunteer programs in case of comprehensive restructuring measures (e.g. switch to a transfer company, conclusion of a termination)

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

On average 3-8 months, incl. preparation stage, given that I/C process is open-ended and quite unpredictable;

Cost

Impacted by industry specifics, vulnerability to conflict or media attention, up to 1.5 x years of service x monthly salary

– agreement on compensation or mitigation of consequences (Reconciliation of Interests and Social plan)

- WC cannot prevent implementation of redundancies, but can demand mitigation of its consequences and delay the process
- Comprehensive notification of redundancies to employment agency

agreement, participation in early retirement schemes)

Risk of disruption

Depend on a variety of factors like nature of business and workforce (industrial/services/high tech); no risk of strikes which would be unlawful, but WC may try to delay process.

Hong Kong

Government aid and recession resources



CV crisis impact

Temporary closure and government aid:

- HW possible. An employer may require employees to work from home if the direction is lawful and reasonable in the circumstances (e.g. if the employer closes its premises for health or safety reasons, particularly where this is consistent with Government practice, guidelines or regulations).
- Employees working remotely should receive normal salaries and benefits in the usual way. Any variations to employment terms should be made by consent with employees.
- On 29 April 2022, the Government introduced a new Employment Support Scheme ("2022 ESS") to provide wage subsidies to employers for three months (i.e. May, June and July 2022) ("Subsidised Months"). The application period for the ESS closed on 12 May 2022. The purpose of the 2022 ESS is to enable employers to retain their current employees and to encourage the employment of more staff. The 2022 ESS does not apply to employees of the Government, statutory bodies or Government-subsvented organisations. All other employers, regardless of industry, who have applied for the 2022 ESS are eligible recipients provided that they meet relevant requirements, namely (i) they have participated in a Mandatory Provident Fund ("MPF") scheme or have set up an Occupational Retirement Scheme ("ORSO") on or before 31 December 2021; (ii) they are not dormant or in the process of being wound up, deregistered or struck off; and (iii) they have settled all clawbacks and penalties under the 2020 Employment Support Scheme ("2020 ESS").
- The Government will calculate the maximum subsidies an employer can receive based on the headcount employed and the MPF/ORSO contributions made in one

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

- To apply for the ESS, employers are required to undertake, for each of the Subsidised Months, to employ a specified number of employees at the respective subsidy levels (i.e. full subsidy, half subsidy and elderly subsidy levels). Employers can choose the number of employees and specify how many of them will be eligible for each level of subsidy.
- Employers will obviously be seeking to achieve the highest subsidies possible by maintaining or increasing their headcount numbers during the Subsidised Months. After submission of their ESS application, employers will be held to the selected headcount for May 2022. However, for June and July, employers are permitted to adjust the specified headcount numbers (once in early June and once in early July) to avoid violating their undertaking if they anticipate that they will be unable to maintain the specified headcount numbers in the relevant month.
- If employers are unable to fulfil their headcount and wage undertakings, they will be required to return the subsidy relevant to the shortfall plus pay a 10% penalty against that amount.

specified month (“Reference Month”). The Reference Month must either be (i) the month used in the employer’s MPF/ORSO records used to apply for the 2020 ESS; or (ii) the MPF/ORSO records submitted in either October, November or December 2021. The total subsidy available to the employer will be capped based on the Reference Month selected.

- For employees receiving HK\$8,000 or more in the Reference Month, a “full subsidy” of HK\$8,000 will be applied. For employees earning between HK\$3,000 and HK\$8,000, a “half subsidy” of HK\$3,000 will be applied. For employees aged 65 or above earning less than HK\$3,000, an “elderly subsidy” of HK\$4,000 will be applied.

For more information click [here](#).

Recessionary measures - CLO and closure

Outline basic redundancy rights

- **Redundancy:** It is lawful in Hong Kong to terminate an employee’s employment by reason of redundancy. A redundancy occurs where the requirement of a business for employees to carry out work of a particular kind, or for employees to carry out work of a particular kind in the place where the employees were employed, ceases or diminishes or is expected to cease or diminish.
- **Severance payment:** A dismissed employee is prima facie entitled to a severance payment if they can show that termination was “wholly or mainly” by reason of redundancy. Under the Employment Ordinance (‘EO’), there is an express presumption that an employee who has been dismissed by their employer was dismissed by reason of redundancy. This presumption can

Concepts CLO and closure

- **Lay off:** An employee will be considered to be laid off and eligible for a severance payment (mentioned in the previous column) where:
 - the employee’s salary depends on the employee being provided with work by the employer for which the employee was employed; and
 - the employer has failed to provide such work for a period that exceeds the maximum permitted period.
- An employee will be taken to be “laid off” where the total number of days on which the employer has not provided the employee with work exceeds:

Schedule/ timeline procedure CLO/closure

Process/timing requirements:

- Give the requisite notice or Pilon; and
- Make all statutory and contractual termination payments within 7 days of the termination date (except where tax withholding obligations apply*).
- *Where the employee is leaving Hong Kong for 30 days or more after the employer has filed a notice of cessation of employment with the Inland Revenue Department (“IRD”), the employer must withhold all payments due to the employee for one month after the filing of such notice or until the employee receives a letter of release from the IRD, whichever is earlier.

only be rebutted by an employer proving that the termination arose for reasons wholly unrelated to redundancy.

- **Notice:** Where the employment contract provides for a notice period, the agreed amount of notice must be given. If the employment contract does not stipulate a notice period for the employer to terminate the employment, the EO prescribes a statutory notice period:
 - In the first month of probation, no notice is required.
 - During probation, but after the first month of probation, at least 7 days' notice must be provided.
 - In all other cases, the employer must provide one month's notice to terminate the employment.

- half of the total number of the employee's "normal working days" in any consecutive period of 4 weeks; or
- one-third of the total number of the employee's "normal working days" in any period of 26 consecutive weeks; and
- the employee is not paid a sum equivalent to the wages which the employee would have earned if work had been provided on those days. The fact that some salary is paid for those days or that a retainer is paid will not necessarily be enough to avoid a lay-off situation giving rise to an obligation to pay severance.
- Although an employment contract may specifically allow an employer to lay off staff at particular times or for a particular duration, any lay-off which exceeds the statutory minimum period will give rise to a liability to make a severance payment.
- (Hong Kong employment legislation does not recognize or specify the concepts of '**collective lay-off**' or '**closure**'.)

Consultation:

- No individual or collective I/C is required.
- There is also no statutory requirement for a selection process. However any selection must not be made on discriminatory grounds and must comply with anti-discrimination laws.

Notifications:

- The employer must notify:
 - the IRD of all terminations one month prior to the termination date (or as soon as possible, e.g. if the employer pays in lieu of notice);
 - the MPF trustee within 10 days of the last day of the calendar month in which the employee's employment ends; and
 - the Immigration Department as soon as possible if any employees are working under an employment visa.
- There are no external reporting/notification obligations in respect of a given number of redundancies or if the Hong Kong entity is closed.

I/C + other rights of in-house bodies of employee participation or third parties

Usual severance package/social plan features (+ cost assessment)

FTO impact assessment (duration, cost, risk of disruption)

N/A

- Accrued "wages" as defined below.
- All other termination payments due under the contract.
- Pilon if the termination is without notice. Pilon is calculated on the basis of "average monthly wages" as defined below.

Duration/timing

(No prior consultation applicable)

Costs/Risk of disruption

- Payment in lieu of accrued and untaken annual leave calculated on the basis of “average daily wages” as defined below.
- Statutory holiday pay for untaken statutory holidays. This is calculated on the basis of “average daily wages” as defined below.
- Statutory severance payment calculated based on the employee's last full month's wages or HKD15,000 (whichever is less) x full service period (pro-rata for any incomplete year of service and inclusive of notice). A statutory severance payment is payable only if an employee has been employed under a continuous contract for at least 24 months and where the employee has been dismissed by reason of redundancy. Statutory severance is subject to a cap of HKD390,000. This payment may be offset against the employer's contributions into the employee's MPF or retirement scheme.
- **Definitions**
 - “Wages” include all payments in respect of work done or to be done, such as salary, contractual commissions, recurrent allowances and overtime payments. Wages do not include discretionary payments (such as discretionary bonuses and commissions), non-recurrent allowances, reimbursements and annual contractual bonuses.
 - “Average monthly wages” means total wages paid in the 12 calendar months prior to the termination date / 12 (on the assumption that the employer treats all days in the year as fully paid). Any days (and wages paid on those days) when the employee was not paid full wages must be discounted from this calculation.
 - “Average daily wages” means total wages paid in the 12 calendar months prior to the termination date / 365 (on the assumption that the employer treats all days in the year as fully paid). Any days (and wages paid on those days) when the employee was not paid full wages must be discounted from this calculation.
- Employers should exercise care and ensure that any decisions in the redundancy process do not contravene either direct or indirect discrimination principles under anti-discrimination legislation. To minimize the risk of discrimination, the employer should endeavour to adopt objective selection criteria. Redundancies which are perceived to be discriminatory may trigger compensation claims.
- Employers may choose to enter into separation agreements with employees to avoid the risks of disruptive and potentially expensive claims which may include legal fees as well as compensation payments.
- Communications should be carefully drafted and coordinated to minimise disruptions and reputational harm to the business.

Hungary

Government aid and recession resources

CV crisis impact

Temporary closure and government aid:

Upon the permission of the competent authority, employers can unilaterally order reference period for a maximum of 24 months. This allows employers to flexibly schedule working time during the 'state of emergency'.

If the employer cannot give work for the employee during the scheduled working time (typically closure of plant or discontinuity of operation), then employees are entitled to base salary except for an "unavoidable external reason", in which case no salary has to be paid. However, it is, in practice, very difficult for employers to refer to "unavoidable external reasons", and as such this can only be relied on in very limited cases.



Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

N/A.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination of indefinite term employment contracts can be on notice ('**ordinary termination**') or with immediate effect in case of material breach of obligation ('**extraordinary termination**').
- The notice is 30 days that gradually increases based on the length of service at the employer.
- Termination by the employer must contain reasoning. In case of ordinary termination, the reason can relate to the employee's lack of skills, behaviour or operation of the employer.
- The employee may be entitled to severance payments under certain circumstances based on the length of service (after at least 3 years of service).
- Specific rules apply to termination of definite term employment contracts and executive employees' employment relationships.

Concepts CLO and closure

- **CLO ('Collective redundancy')**: applies if an employer, for reasons related to its operations, within a period of 30 days, intends to terminate the employment of
 - at least 10 employees if the total number of employees ranges between 21 and 99,
 - at least 10% of the employees if the total number of employees ranges between 100 and 299;
 - at least 30 employees if the total number of employees is 300 or more.

(Importantly, employers cannot avoid the application of the collective redundancy procedure by negotiating mutual agreement on terminations with the employees.)

- **Closure**: means the liquidation or winding-up of the employer enterprise without a successor. In this case the employment relationships are terminated for reason related to the employer's operation and often collective redundancy rules apply.

Schedule/ timeline procedure CLO/closure

- In case of collective redundancy:
 - *Consultation with the WC* (if any): At least 15 days before the decision on implementation of collective redundancy, the employer must initiate consultation with the WC. At least 7 days before the commencement of the consultation, the employer must inform the WC in writing about certain issues.
 - *First notification of the Labour Office*: The Labour Office must be notified of the intention of starting a collective redundancy procedure in writing (by providing the same information which was provided for the WC). A copy of this notification must be sent to the WC (if any).
 - *Decision on collective redundancy*: In its decision the employer must determine the number of employees affected by the collective redundancy, the starting and end date of the collective redundancy, and its schedule.
 - *Second notification of the Labour Office*: The Labour Office must be notified of the decision on collective redundancy in writing at least 30 days before delivering termination notice to the employees. In such a notice, the employer has to give a list of the affected employees, certain elements of personal data, job position and qualifications.
 - *Notification of the employees*: Employees to be made redundant must be notified of the collective redundancies in writing at least 30 days prior to delivering the termination notice. Such notice has to be sent to the WC (if any) and the Labour Office as well.

I/C + other rights of in-house bodies of employee participation or third parties

I/C rights of WC are the following:

- before the decision on implementation of collective redundancy, the employer must initiate consultation with the WC;
- the employer must inform the WC in writing about certain issues (e.g. the reasons for the projected redundancies; the number of employees to be made redundant);
- a copy of the notification sent to the Labour Office must be sent to the WC as well; and
- notification of the employees on the collective redundancy must be sent to the WC as well.

Usual severance package/social plan features (+ cost assessment)

- The employer usually prepares a severance package in order to persuade employees to sign a mutual separation agreement. Typically, this includes mandatory severance payments due under the Labour Code plus an additional 1-3 month salary.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Minimum 3-5 month process, including planning, preparation of documents, I/C, notification of Labour Office/affected employees, negotiation of mutual separation agreement/notice.

Cost

Can be well beyond legal entitlements, impacted by industry specifics, TU power, vulnerability to conflict or media attention.

Risk of disruption

Depends on a variety of factors like overall quality of industrial relations, history of change, nature of business and workforce (industrial/services/high tech), impact of TUs, etc.

Italy



Government aid and recession resources

CV crisis impact

New regulations:

- Starting from September 1, 2022, smart working will be subject to specific agreements between employer and employee and to rules set by national and/or company collective agreements. Right to disconnect to be included in every agreement.
- The COVID 2021 Wage Supplementary Fund has now ended and from January 1, 2022, all social benefits return to ordinary timelines.
- Budget Law 2022 (Law No. 234/2021) has introduced further 12 months of extraordinary wage supplementary fund aimed at the professional recovery of workers at risk of redundancy. Employees subject to the new plan introduced by Budget Law 2022 (see below) are eligible for this treatment.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- The employee is entitled to receive the mandatory termination indemnities:
 - 1 the end of service allowance "TFR" (around 1 month per year of service);
 - 2 the notice (whose length depends on the CBA and length of service); and
 - 3 the other termination indemnities (e.g. quota of supplementary instalments, accrued but unused leaves, etc.).

The employer may also pay an exit package to avoid the risk of litigation.

Concepts CLO and closure

CLO / closure: if the company employs more than 15 employees and at least 5 dismissals arise from the reduction or transformation or termination of the business or the activity within any (future) rolling 120 days (only 1 if the company is receiving State-salary support) in the same production unit (or several linked units within a specified region).

Budget Law 2022 (Law No. 234/2021) has introduced a new step for companies with more than 250 employees which will proceed with a closure involving at least 50 redundancies.

Schedule/ timeline procedure CLO/closure

Decision to proceed with the layoff must be communicated to the WC (if any) and the relevant TUs. The WC/TUs may within 7 days ask for a *consultation* procedure, which must start in the following 7 days and be completed within 45 days. If there is no agreement, there is a *further conciliation procedure* of 30 days before the local labour bureau. The whole procedure must be concluded within 75 days. Shorter terms apply if less than 10 employees are dismissed. At the end of the procedure the employer remains free in their final decision.

New Budget Law procedure:

- 1 At least 90 days before the starting date of the official collective dismissal procedure employer is required to notify WC (if any), the relevant TUs and Public Authorities (including Ministry of Labor and Social Policies and Ministry of Economic Development) of the intention to proceed with the closure.
- 2 Within 60 days from the aforementioned communication, the employer must submit a plan describing the actions envisaged to limit the employment and economic consequences of the closure. The plan must include:
 - a The actions envisaged to safeguard employment levels;
 - b The actions for the harmonious management of possible redundancies (such as the use of social shock absorbers, relocation to other employers and redundancy incentives);
 - c The actions aimed at re-employment;
 - d The prospects for the sale of the business or of the business units with the aim of continuing the activities;
 - e Any plans to convert the production site, including for socio-cultural purposes in favor of the territory concerned;
 - f The time schedule and procedures for implementing the planned actions.
- 3 Within 30 days after presenting the plan:

- a The parties reach an agreement on the plan.
- b The parties do not reach an agreement and therefore at the expiration of the 90 days period the employer will start the formal redundancy process, which in this case will last further 30 days.

I/C + other rights of in-house bodies of employee participation or third parties

- No veto nor blocking rights from internal bodies
- Mandatory I/C on
 - the reasons grounding the redundancies;
 - the number, job position and the relevant professionalism of the entire workforce vis-à-vis the redundant positions;
 - the expected timing for dismissals;
 - any proposal or measure to suspend or mitigate the social consequences triggered by the dismissal (e.g. the possible postponement of the dismissals after a period of state salary support).

Usual severance package/social plan features (+ cost assessment)

- **Statutory:**
 - Notice (or indemnity in lieu of notice (in case of immediate termination)); the notice is provided for by the applicable national CBA in relation to the job level and seniority of each redundant employee;
 - T.F.R., i.e. an amount proportional to length of service and to the aggregate payments made throughout the years (roughly 1/13 of the year salary times total years of employment - already accrued for in the balance sheet) + accrued and unpaid wages as per payroll;
 - redundancy fee for each redundant employee (approx. €9,000 for each dismissal; reduced of 1/3 in case of agreement with the WC/TUs) to support their unemployment benefit.
- **Negotiable:**
 - Any potential ex gratia payment agreed upon with the TUs (or individually with each redundant employee). These amounts are often offered by employers on top of the mandatory payments, both to support employees upon the loss of the job and to reduce risks of litigation regarding the redundancies. No legal parameters apply to these offers, which usually depend on an assessment of the actual risks of litigation and the negotiation with the WC/TUs.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Approx. 3 months.

Cost

Reasonably beyond legal entitlements, also depending on positive outcome of consultation with the TUs.

Risk of disruption

Unlikely. Worst case scenario consists in lack of agreement with the TU. Risks of strikes not excluded.

Netherlands



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Notice of termination can only validly be issued upon receipt of a permit issued by the ET. Company will have to demonstrate:
 - legitimate business rationale for the restructuring, e.g. redundancies should be 'necessary' and structural (assessed over a 26 weeks' period in the future);
 - legitimate business rationale for eliminating the identified roles;
 - termination of contingent employees in affected roles, before selecting permanent employees for redundancy;
 - proper application of the (strict/mathematical) statutory criteria for selecting redundant employees (no quality-based cherry-picking allowed);
 - no back-filling;
 - no options for redeploying the redundant employee within the group globally;
 - WC or other Personnel Representative Body may need to be consulted.
- If the employer wishes to dismiss 20 or more employees within a certain geographical region (designated by statute) within any rolling 3 months' period or if such obligation arises from a CBA, the government agency UWV and/or Trade Unions (TUs) should be notified (for TUs this will be the trigger to i.a. negotiate a social plan).
- Employee shall be entitled to statutory severance and observance of the notice (PILON possible).

Concepts CLO and closure

- CLO: if it will be anticipated at any point in time that at least 20 employees will have to be terminated within any (future) rolling three months' period within a certain statutory (geographical) region (the "Threshold").
- If a CBA applies, a different (stricter) threshold may apply.
- (Dutch employment legislation does not recognize or specify the concept of 'closure' as such.)

Schedule/ timeline procedure CLO/closure

- Preparation stage: 1 – 2 months
- I/C process: 2 weeks – 3 months
- Implementation stage (2 weeks – 11 weeks, excluding notice to be observed):
 - File pro forma petition in ET: D-1
 - Issue redundancy statements and compromise offers: "D-day"
 - Ultimate date for acceptance of compromise offers: D+10
 - (assumed: Compromise offer rejected) proceed with proceedings at ET: D+14
 - End of ET proceedings: D+74
 - Issue notices of termination: D+75
 - Formal date of termination of employment: upon expiry of the applicable notice (calculated as from D+75).

I/C + other rights of in-house bodies of employee participation or third parties

- The WC will have a right to render advice, provided that a (company specific) materiality test is met.
- If the final decision deviates from WC advice, the employer must observe a 1 month's waiting period (during which the WC can appeal to court).
- If there is no WC, a personnel representative body (lesser form of a WC), if any, or the Town Hall have a right to render (non-binding) advice if the contemplated decision directly or indirectly impacts 25% of the workforce. No consultation requirements in companies with less than 10 employees.
- Consultation should be commenced as soon as the company has (internally) formulated a contemplated decision/proposal. The company may not take any final decision (or implement) prior to conclusion of the consultation process. Rationale: the (advice of the) consultation body should be allowed to materially influence the modalities of the (final) decision.
- If the TUs should be consulted (e.g. in case of a CLO), their role will in real life usually be limited to negotiating a social plan.

Usual severance package/social plan features (+ cost assessment)

- Statutory:
 - Notice;
 - Statutory severance: 1/3 monthly salary for each year of service, calculated pro rata for the duration of the employment on a daily basis.
- Negotiable (and common):
 - Multiplier towards statutory severance (e.g. multiplier of 1.8);
 - Employability Budget (outplacement/re-training);
 - Compensation for legal support;
 - Favorable bonus treatment in final year of employment;
 - Favorable treatment of any LTI (stock options; RSUs).

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

2 - 8 months process, depending on nature and conduct of I/C process (open-ended) and on the need or no need to conduct ET Proceedings (in case of compromise offers being rejected).

Cost

Costs depend on many factors, including nature of the restructuring (small RIF; large RIF; full shutdown), industry-sector and TU-involvement and on the company's appetite to exchange time (speed) for money.

Risk of disruption

Depends on various factors, e.g. industry sector, percentage of TU members among the company's workforce, nature of the restructuring (less likely in case of a small RIF; far more likely in case of a large RIF or shut-down) etc.

Industrial action is likely to occur in case the company is not prepared to meet the TUs' demand in respect of the separation packages.

Industrial action is likely (at some point during the process) but impact varies on the type of industrial actions, such as:

- 'classical' complete strike, where all employees cease the performance of their duties for a certain period;

- a slowdown;
- work-to-rule actions;
- selective strikes (where the production is stopped for only a short period of time, or where only a (small) part of the personnel goes on strike at any given point in time).

Poland



Government aid and recession resources

CV crisis impact

- As of 16 May 2022 the official state of pandemic was waived in Poland, and replaced by the state of epidemic threat.
- There are no Anti-Crisis Shield measures available that were made available in 2020 nor any special restriction on restructuring.
- The only remaining tool is related to possible reduction of restructuring costs in case of direct impact by the pandemic or on given redundancy (economic long-term aspect of business operations). Apart from that all general restructuring rules apply, see below.
- However, currently the Polish economy is experiencing further challenges caused by raising inflation and impact of the war in Ukraine, thus it is not impossible that some additional anti-crisis mechanisms will be adopted by the Government, but for now there are no specific projects or regulations to this end.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination by notice, with notice pay (from 2 weeks up to 3 months depending on outstanding holidays)
- Severance payment in case of reaching collective redundancies thresholds (from 1 to 3 months, but capped on EUR 9,820 in 2022)
- Same rules apply for fixed term contracts.

Concepts CLO and closure

- **CLO ('full scale redundancies procedure')**: when there is 20 + employees and termination for reasons attributable to employer over 30 days, will affect at least:
 - 10 employees, where there is less than 100 employees in total,
 - 10% where there is between 100 and 300 employees,
 - 30 employees, where there is over 300.

Schedule/ timeline procedure CLO/closure

- Contacting TUs / or electing (timing: approx. 1-2 weeks)
- Notification to TUs/representation
- 1st Notification to Labour Office
- Consultation process (timing: 20 days)
- Reaching agreement with TUs/representatives OR unilaterally introducing Collective Redundancy Regulations (content and form requirements)
- 2nd notification to the Labour Office

- (Polish employment legislation does not recognize or specify the concept of 'closure' as such.)

- Announcement of redundancy rules
- Individual redundancy meetings (termination of employment not earlier than 30 days after 2nd notification).

I/C + other rights of in-house bodies of employee participation or third parties

- Consultation obligation vis-à-vis TUs and WC (if any)
- If no TUs, need to elect ER
- Trying to reach agreement but not mandatory
- No veto or blocking rights from internal bodies, TUs/WC/ERs or authorities.

Usual severance package/social plan features (+ cost assessment)

- Severance payment in case of reaching collective redundancies thresholds (from one to 3 months, but capped on EUR 9,820 in 2022)
- In case redundancy is directly linked to economic impact of CV pandemic on total salaries budget of employer the severance can be capped on EUR 6,550)
- Voluntary severance payment can be granted (market standard from 1 to 3 additional salaries)
- Uncommon: outplacement services.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Minimum 2 months

Cost

No admiration fees, but common legal aid costs

Risk of disruption

Depends whether or not employee to be made redundant are required to work over their notice (risk of lack or poor performance).

Strike risks low

Singapore

Government aid and recession resource



CV crisis impact

Government aid:

- The Government has continued to support Singapore companies and employees following the "**Jobs Support Scheme**" pay out from 31 March 2022, which covers wages from November 2021 to December 2021 to help enterprises retain local employees. The "Wage Credit Scheme" will continue to support wage increases for Singaporean employees given in 2021, 2020 and 2019. There are also sector specific support for businesses in Aviation, Tourism, Land Transport, Maritime and Arts and Culture.
- Various enhancements have been made to the Enterprise Financing Scheme – Enhancements made to the following schemes have been extended:
 - Enterprise Financing Scheme – Project Loan (EFS-PL) will be extended to 31 March 2023,;
 - SME Working Capital Loan (EFS-WCL) will be extended to 30 September 2022;
 - Enterprise Financing Scheme – Trade Loan (EFS-TL) will be extended to 30 September 2022;
 - Enterprise Financing Scheme – Merger & Acquisition Loan (EFA-M&A) will be extended to 31 March 2026;
 - The Temporary Bridging Loan Programme (TBLP) (previously for tourism sector only) has been extended to all sectors to 30 September 2022.

For more information click [here](#).

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

- N/A

Recessionary measures - CLO and closure

Outline basic redundancy rights

- It is lawful to terminate an employee by reason of redundancy under Singaporean law. A mutual separation agreement is not necessary, but it is useful in cases where employers may require their employees to agree to a waiver/general release of claims, in consideration of a retrenchment benefit.
- When carrying out a redundancy exercise, the selection of employees for redundancy should be conducted fairly, based on objective criteria such as the ability of the employee to contribute to the employer's future business needs. Discrimination against local employees, for example, will not be tolerated by the Government.
- Employers should provide longer notice to the extent practicable for employees who will be laid-off, beyond the minimum requirements covered under the Employment Act.
- Employers should provide retrenchment benefits in line with the Tripartite Advisory.

I/C + other rights of in-house bodies of employee participation or third parties

- Where the employer is unionized, the employer is recommended to inform and consult the TU on the redundancy exercise. In most collective agreements, the norm is to inform the TU one month before notification of the employees.

Concepts CLO and closure

- **CLO:** If the employer employs at least 10 employees and the redundancy exercise affects at least 5 employees within a period of 6 months,
- (Singaporean employment legislation does not recognize or specify the concept of '**closure**' as such.)

Usual severance package/social plan features (+ cost assessment)

- *Payment of Salary (in lieu of notice) if applicable:* (Gross rate of pay x notice)
- *Payment of accrued wages and benefits:* (Current wages x number of days up to day of termination)

Schedule/ timeline procedure CLO/closure

- *Notification:* the employer must notify the Ministry of Power ('**MOM**') of the redundancy. For the first 5 employees to be laid-off, the notification must be submitted within 5 working days after the 5th employee is notified of their redundancy. Thereafter, notification must be submitted within 5 working days after each employee is notified of their redundancy.
- *Consultation:* There are no requirements to consult an ER or individually in advance of any redundancy.

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

(No prior consultation applicable)

Costs

- *Central Provident Fund ('CPF')*: (Current CPF contribution x number of days up to day of termination)
- *Payment in lieu of days of accrued but untaken holiday as at the termination date*: (Gross rate of pay x number of days of untaken holiday)
- *Retrenchment Benefit*: There is no minimum payment in Singapore. The Tripartite Advisory recommends 2 weeks to 1 month for every year of service, for employees who have served for at least 2 years with the employer.

Employers are urged by MOM to consider alternatives to redundancy including training, redeployment, flexible work schedule, shorter work week and temporary lay-off.

MOM must be notified of all cost-saving measures that affect the employees' salaries, excluding adjustments such as bonuses and increments.

Risk of disruption:

Appeals against dismissals: An employee who considers their dismissal to be unfair may make a written appeal within one month of their dismissal to MOM. If the dismissal is proved to be unfair, MOM may order the employer either to reinstate the employee and pay the employee for the dismissal period or to pay compensation.

Slovak Republic

Government aid and recession resources



CV crisis impact

Temporary closure and government aid:

- If the nature of work allows it and no serious operational grounds exist by the employer, HW may be ordered unilaterally by the employer to the employees (such regulation applies in case of occurrence of extraordinary circumstances only).
- The first economy aid to SMEs (employers and self-employed in *Slovak: SZČO - samostatne zárobkovo činná osoba – small, medium and big enterprises included*) introduced by the Slovak government is no longer effective, since the pandemic in Slovakia is stabilized and the overall situation has been improving.
- The new Act No. 215/2021 Coll. on Aid in Periods of Shortened Work (“the Act”) entered into force on March 1, 2022. It represents a legislative solution following abolishment of the First Economy Aid programme. 30 April 2022 was the last date the applicants were entitled to ask for help from the programme.
- The Act stipulates conditions under which one may apply for financial aid in times of shortened work (in period during which the employer's activities are limited due to external factors such as the pandemic).
- The financial aid shall be provided to an employer who:
 - Finds themselves in the period of the shortened work,
 - paid all the obligatory contributions to the Social Insurance Agency, given that the period during which they were obliged to pay the contributions was at least 24 months long,

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

- The employer is obliged to keep the position for which the support was provided for at least two months after the end of the month for which the support was provided.
- Moreover, the employer shall apply for the aid by the end of the month following the month for which the aid is required at the latest.
- The aid shall be provided either by the Central Office of Labour, Social Affairs and Family, or the relevant Office of Labour, Social Affairs and Family, based on the electronic application of the employer that is to be signed using the qualified electronic signature.
- The financial aid shall compensate 60% of the employee's hourly income. The sum of the financial aid provided per one employee is limited to a sum corresponding to 1/174 of an average income of an employee in the Slovak Republic multiplied by two. The aid shall be provided monthly, in the maximum period of 6 months during 24 consecutive months.
- Please note that this is currently the only financial aid that may be provided by the state. Thus, there is currently no aid available to the self-employed or other potential beneficiaries.

- did not breach the ban on illegal employment in the two last years prior to the application,
- entered into agreement with either the employees' representatives, or in case there are no such representatives, directly with the employee, stating that the employee shall apply for the aid. Another option is for the employer to obtain approval of a referee pursuant to the Labour Code regarding application for the aid.

Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination due to "redundancy grounds" is admissible in case the following legal requirements are fulfilled:
 - The employer or his competent body has decided to change the tasks, technical equipment or to reduce the number of employees for the purposes of increasing labour efficiency or to introduce other organizational changes (restructuring), and
 - (ii) an employee has become redundant as a result of the adopted decision on the organizational change.
- The termination ground (i.e. termination for redundancy) shall be specified clearly and unambiguously in the written notice of work.
- Alternatively, the employment may also be terminated by a mutual written agreement between the employer and the employee. In such case the termination ground (redundancy) shall be also defined within the termination agreement.
- Providing that the employment is terminated on "redundancy grounds" (whether by a unilateral

Concepts CLO and closure

- **CLO/closure:** These rules shall apply if, within a period of 30 calendar days, the employer (or its part) due to "redundancy grounds" or due to the ground that the employer's enterprise (or its part) is closed down or reallocated and the employee does not agree with such reallocation, gives notice of work to at least: (a) 10 employees where the employer employs from 21 to 99 employees, (b) 10% of employees where the employer employs from 100 to 299 employees, (c) 30 employees where the employer employs at least 300 employees.
- The above shall apply also in the situations when, within the mentioned timeframes, the employment relationship with the employee terminates otherwise based on the ground on the side of the employer.
- The employer shall be obliged to inform and consult on the collective redundancy (at least 1 month prior to the redundancy) with the employees' representatives (in the absence of employees' representatives, directly with the

Schedule/ timeline procedure CLO/closure

- Firstly, the internal employer's decision that would result in collective redundancy should be based on any of the grounds outlined.
- In such a situation, the employer shall then inform and consult the employees' representatives with the aim to reach an agreement on measures that could be taken for the purposes of mitigating or even preventing from collective redundancy happening. This shall occur at least 1 month before the first termination notice is served. In case of absence of the employees' representatives the employer shall inform and consult directly with the targeted employees.
- Equally, the written report on the employer's decision on collective redundancy as well as on the results of consultation with the employees' representatives must be delivered to the competent labour authority. The first termination notice may be served just upon lapse of period of 1 month after the report is delivered to the National Labour Authority.

termination notice or a termination agreement), the employee shall have the right to statutory severance payment, and thus in the amount depending on the length of employee's employment by the employer. For more information, please see column 7.

targeted employees) and also notify the competent labour authority in Slovakia of this beforehand. For more information please see column 5 and 6.

I/C + other rights of in-house bodies of employee participation or third parties

- The information mentioned within the column 5 addressed to the employees' representatives shall be made in writing and shall include: (a) the reasons for collective redundancy, (b) number and professional qualifications of the targeted employees, (c) the number and professional qualifications of all employees employed by the employer, (d) the period within which collective redundancy is planned to take place, and (e) the criteria proposed for selecting employees to be made redundant.
- Consent of the ER (in case of absence of ER the consent of the targeted employees) is not a condition for proceeding with the collective redundancy – the aim of the consultation is to reach agreement on eventual measures as mentioned within the column 5.
- The written report to be addressed to the competent labour authority (mentioned within column 5) shall comprise the same information as information addressed to the employees' representatives described above. Moreover, the name, surname and permanent residence of the targeted employees shall be included within the report to be delivered to the competent labour authority.

Usual severance package/social plan features (+ cost assessment)

- The amount of severance payment depends on the employee's length of service by the employer as well as on the fact whether the termination is executed by termination notice or through the termination agreement.
- In case of giving notice of work based on "redundancy grounds", the minimum statutory severance payment shall amount to: (i) one times the employee's average earnings if length of service is at least 2 years and less than 5 years, (ii) twice the average earnings if length of service is at least 5 years and less than 10 years, (iii) 3 times the average earnings if length of service is at least 10 years and less than 20 years, (iv) 4 times the average earnings if length of service is at least 20 years.
- In case of concluding a termination agreement based on "redundancy grounds", the minimum statutory severance payment shall amount to: (i) one times the employee's average earnings if employee's length of service is less than 2 years, (ii) twice the average earnings if length of service at least 2 years and less than 5 years, (iii) 3 times the average earnings if length of service at least 5 years and less than 10 years, (iv) 4 times the average earnings if length of service at least 10 years and less than 20 years, and (v) 5 times the average earnings length of service at least 20 years.

FTO impact assessment (duration, cost, risk of disruption)

Timing:

It is estimated that the process lasts from 4-6 months.

Costs:

Minimum statutory amounts of severance payments to be paid to the employees shall be the primary borne cost by the employer.

Risk of disruption:

The striking of employees is possible. The right of strike of the employees is legally guaranteed by the Slovak Constitution for the purposes of protection of social and economic interests of the employees. The disruption may be partial/complete, depending on various circumstances like the type of operational activities performed, background of change (restructurings), quality of relations, communication methods etc.

Spain



Government aid and recession resources

CV crisis impact

Temporary closure and government aid:

- **HW:** remains as a strong recommendation, however, as it is not an obligation, to implement HW. The Law 10/2021, of July 9, which refers to work from home arrangements, must be complied with. Please note that working from home arrangements are voluntary, which means that unless both Company and employee are willing to agree on the need or desire for remote working, it cannot be imposed.
- **Government aids:**
 - If the employer implements a **furlough/reduction of working time for force majeure**, the employer will be exempt from paying 20% of SSC if the measure is based in economic, technical, organizational or productive reasons and formative actions are implemented, or exempt from paying 90% of SSC in the case of *force majeure* grounds. Either way, such exemptions are conditional upon the employer maintaining employment levels in the 6 months following the re-activation of normal activity.
 - During the suspension of contracts, **the employer will not pay the employees' salaries;** in case of reduction of the working time, the employer will not pay those salaries corresponding to the working time reduced –the Spanish unemployment authority will pay 70% of the employees' regulatory base for the first 6 months and 50% from the 7th month. The unemployment benefit ranges from 540.41 EUR to 1,519.92 EUR. Where working time is reduced, these amounts will be proportional to the time reduced,
 - Companies may request **deferrals in the payments of debts with the social security**, provided that they had no other postponement in force and certain additional conditions are met. The maximum period for paying back the debt is five years, although the actual period granted will depend on the amount of the debt and the circumstances at the time. The awarding of deferment will incur interest, in accordance with legal financial interest rates.

Restrictions on restructurings

Aid conditional upon absence of lay-off/prohibition of lay-off:

- The social security exemption in case of ERTE based on force majeure will be subject to the company's obligation to maintain its employment levels in the 6 months following the re-activation of normal activity
- Terminations based on objective grounds (i.e. economic, technical, organizational, productive or for force majeure) related to CV will be deemed unjustified, triggering the payment of full statutory severance payment for termination without cause.

- Following the labour reform that came into force on December 31, 2022, a mechanism for employment flexibility and stabilization has been established which, once activated by the Council of Ministers, allows companies to request measures to reduce working hours and suspend employment contracts (RED Mechanism). It may be applied in two scenarios: (i) when a cyclical situation arises: applicable when the general economic situation makes it advisable (it has a maximum duration of 1 year) or (ii) when a specific sector requires it: applicable when retraining and professional transition processes are necessary in a sector (maximum duration of 1 year with the possibility of two extensions of 6 months each).

Recessionary measures – CLO and closure

Outline basic redundancy rights

- Minimum statutory notice is 15 days (CBA may establish longer period), which can be paid in lieu at employer's choice.
- In case of Pilon, it includes ordinary payments (i.e. 15 days of salary).
- Employees made redundant are entitled to a minimum statutory severance of 20 days of salary per year of services with a maximum of 12 months of salary. Standard practice is to enhance this to a 1.5 rate.
- Employer must pay severance compensation for termination without cause in case of terminations based on CV grounds (i.e. 33 days of salary per year of services for those services rendered before 12

Concepts CLO and closure

- **CLO ('Collective redundancy')**: threshold number of employees within any rolling 90-day period:
 - 10 employees in companies/workplaces with less than 100 employees,
 - 10% of the workforce in companies/workplaces with 100 to 300 employees, or
 - 30 employees in companies/workplaces with more than 300 employees,
- **Closure**: Definite stoppage of a company/workplace impacting 5 or more employees.

Schedule/ timeline procedure CLO/closure

Preparation of documents for the collective redundancy (4 to 6 weeks).

- The documents that must be prepared within this phase and that are provided to the employees upon beginning of the consultation are the following:
 - Memorandum on the grounds of the collective redundancy.
 - Financial information of the company and companies of its group in Spain (including last 2 years and preliminary accounts for the current year).
 - Technical report on the financial, organizational or production grounds (to be prepared by external provider based on the information provided by the company).
 - Document stating the number of employees and their job position during the last 12 months, designating those positions affected by the collective redundancy.
 - Document stating the criteria considered for the election of the affected employees.
 - Document stating the period of time in which the terminations will take place.

February 2012, and 45 days of salary per year worked for those services render after 12 February 2012).

- The employer must also pay at the termination date the employee's salary liquidation that includes accrued and outstanding salaries at the moment of termination, compensation for non-taken holidays, Pilon (if any), as well as any other outstanding amount at the moment of termination.

- Document stating the composition of the employees' representation the consultation period.
- Writ for the employees' representatives asking for a report on their considerations about the collective redundancy.
- Preliminary communication to the employees of the company's intention to implement a CD.
- After such communication, employees must appoint a specific Employees' Representation of up to 13 ERs in a maximum period of 15 days (7 days if all affected workplaces have employees' representatives).
- Formal communication of the initiation of the collective redundancies to the Spanish Labour Authorities.
- Consultation period with the ERs, which would take a maximum of 30 calendar days (or 15 days in companies with less than 50 employees).
- Communication of the outcome of the negotiation and the company's decision to: ERs and Spanish Labour Authorities.
- Communication of the termination to the employees eventually affected.
 - At least 30 days between the consultation period starting date, and the date when the termination is effective, is required.
 - The company must communicate the termination in writing to each impacted employee and with a 15-day prior notice (or payment in lieu).

I/C + other rights of in-house bodies of employee participation or third parties

I/C rights of WC include the right to be consulted during a negotiation period (lasting up to 30 days or 15 in the event the Company has a workforce of less than 50 employees).

Usual severance package/social plan features (+ cost assessment)

- **Severance:** The minimum severance payment, which is equal to 20 days of salary per year of seniority (with a maximum limit of 12 months). In collective redundancy processes is common practice to ensure an agreement with

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Around 3-4 months, with preparation phase taking some 4 to 6 weeks, 4 weeks for

The aim of that negotiation is to evaluate and reduce the number of employees terminated or improve their termination conditions.

The documentation necessary to prove the causes that motivate the collective redundancy will also be provided to the WC at the initiation of the consultation period: (i) explanatory report on the causes, (ii) number and professional category of the affected employees, as well as of the employees usually employed during the year, (iii) in companies that carry out CLOs that affect more than 50 employees, an external relocation plan, (iv) the period in which dismissals will be carried out, (v) selection criteria of the affected employees.

ERs do not have veto power but they may challenge the measure before the Employment Courts, thus an agreement is strongly recommended.

legal representatives, by offering an enhancement of the minimum severance.

- **Outplacement plan:** If the collective redundancy impacts more than 50 employees, the company must offer an outplacement plan.
- **SSC for affected employees that are 55 years old or more:**
 - Obligation to continue contributing for these employees to the social security until the employee reaches 61 years old.

Contribution to the Public Treasury in case of collective redundancy in companies terminating employees of 50 years old or more:

- This obligation is triggered if:
 - The number of employees is over 100.
 - The company or its group in Spain had a positive financial result in the 2 previous years or in 2 consecutive years in the 4 following years, after the collective redundancy.
 - The percentage of employees affected by the collective redundancy with 50 or more years of age over the total number of employees affected by the termination is higher than the percentage of employees of 50 or more years in the company. For this purpose, the employees terminated in the previous 3 years or the year after the process is also taken into account.
 - The contribution includes: (i) the total amount of unemployment benefits of the employees over 50 years old (i.e. affected by the collective redundancy + terminated in the three years before or the year after) + (ii) the total amount for SSC during the unemployment benefits; + (iii) a fixed amount for each employee that may be entitled to receive an unemployment subsidy.

negotiation and some 2 weeks for implementation.

Cost

Usually implies an enhancement over the legal statutory severance to ensure an agreement with TUs and avoid Court proceedings. Final enhancement rate varies significantly from one sector to another.

Risk of disruption

Depends on a variety of factors like overall quality of industrial relations, history of change, nature of business and workforce (industrial/services/high tech), impact of TUs. The risk of violence is minimal, but strikes are more common depending on industry.

Sweden



Recessionary measures - CLO and closure

Outline basic redundancy rights

- Termination can be made for business reason observing the legal notice.
- (1) Indefinite term contracts concluded *after 1 January 1997*, notice depends solely on length of service:
 - 0–2 years' service: 1 month notice
 - 2–4 years' service: 2 months' notice
 - 4–6 years' service: 3 months' notice
 - 6–8 years' service: 4 months' notice
 - 8–10 years' service: 5 months' notice
 - 10 years' service or more: 6 months' notice
- (2) Indefinite term contracts *pre-1997*: notice depends on employee's age:
 - 35–40 years of age: 4 months' notice
 - 40–45 years of age: 5 months' notice
 - 45 years or more: 6 months' notice

Concepts CLO and closure

- Same legal procedure applies to **CLOs** and **closure**.

Schedule/ timeline procedure CLO/closure

- *Preparation stage* (with communication, cost computation, contingency planning) – preferably 2 – 4 weeks
- Notification to Public Employment Service (timing depending on the number of affected employees)
- Kick-off meeting with TUs
- Consecutive *I/C meetings with TUs* –open-ended, but on average 2-3 months
- End of I/C procedure + management decision to proceed
- Implementation stage covering:
 - town hall meeting with all employees
 - serving notices of termination

- Notice pay includes salary and all ongoing benefits
- The employee is required to work during the notice
- Last-in/first-out order must be followed (i.e. employer cannot pick which employees to lay off and which to keep)
- Terminated employees have a priority right to re-employment for 9 months after the end date if the employer re-hires

I/C + other rights of in-house bodies of employee participation or third parties

- No works council concept. I/C rights exercised by TUs.
- I/C rights of TU include
 - information on business case
 - assessment and opinion on business case
 - appointment of employee consultant to review business case
 - advice on selection criteria of affected employees (possible to make an agreement on deviation from the last-in/first-out priority order)
- Joint closure of I/C stage is highly recommended – open-ended so TU leverage on I/C end
- No veto nor blocking rights from TU
- No blocking rights from employees

Usual severance package/social plan features (+ cost assessment)

- Pay during statutory notice
- Senior/management employees will typically have an additional contractual notice
- No severance payment due under mandatory law in addition to notice pay
- Compensation for unused vacation days due after the end date

FTO impact assessment (duration, cost, risk of disruption)

Duration/timing

Minimum 4-6 month process, incl preparation stage (2-4 weeks), knowing that I/C process is open-ended so quite unpredictable;

Cost

Estimate: Salary during notice of 1 - 6 months (depending on the length of service) plus additional contractual notice, if any.

Risk of disruption

Employees can typically leave with one month's notice. Retention incentives may be required to encourage employees to stay until the closure date / lay off implementation date

United Kingdom



Recessionary measures - CLO and closure

Outline basic redundancy rights

Payments

- Usual termination payments (e.g. notice pay, payment for accrued holiday);
- Statutory redundancy payment (if eligible, see below); and
- Contractual redundancy pay (if applicable).
- Employees only entitled to statutory redundancy pay if they have 2 years' service or more.
- Statutory redundancy pay is based on:
 - 0.5 week's pay for each full year the employee was under 22;
 - 1 week's pay for each full year the employee was 22 or older, but under 41;
 - 1.5 week's pay for each full year the employee was 41 or older.
- A week's pay is capped at £571 (from 6 April 2022 – 5 April 2023). Length of service is capped at 20 years.

Process

Concepts CLO and closure

CLO: Collective consultation obligations are triggered where one employing entity is proposing to dismiss as redundant:

- 20 or more employees;
- at one establishment;
- within a rolling period of 90 days (or less).

"Establishment"

- "Establishment" means the local unit or entity to which employees are assigned to carry out their duties.
- If an employer is proposing to make redundancies at two sites or more, it may be necessary to aggregate the number of proposed redundancies for the purposes of calculating whether the threshold of 20 has been met. This is a complex fact-specific test and specific advice should be taken where the position is unclear.

Number of dismissals

- Any dismissal for a reason not related to the individual counts as a redundancy for this purpose.
- Voluntary redundancies and employees who may leave under a settlement agreement should be included.
- The expiry of a fixed-term contract on the agreed termination date will not need to be counted. However, early termination

Schedule/ timeline procedure CLO/closure

Government notification

- Where the collective consultation obligations are triggered, the employer is required to notify the government using the HR1 Form.
- A copy of the form should also be provided to the ERs.
- This notification must be sent at least 30 days before the first dismissal takes effect (or 45 days if 100 or more redundancies are proposed). It is a criminal offence (unlimited fine) not to comply with the obligation to file an HR1.

Consultation process

- Timing: consultation must start at least 30 days before first dismissal takes effect where employer proposes (i.e. before a decision is made) to dismiss 20 to 99 employees (or 45 days before where 100 or more dismissals are proposed).

- Employees with 2 years' service or more are protected from unfair dismissal. This means they have the right:
 - not to be unfairly selected for redundancy; and
 - to be consulted on the decision.
- of a fixed-term contract before the fixed-term end date will count.
- (UK employment legislation does not recognize or specify the concept of 'closure' as such.)
- Provision of information: As part of the consultation process, the employer must give ERs prescribed information.
- Consultation: the aim should be to try and reach agreement on ways and means of avoiding the dismissals, reducing the number of dismissals and mitigating their consequences. (although agreement is not ultimately required to proceed with the proposals).

I/C + other rights of in-house bodies of employee participation or third parties

Usual severance package/social plan features (+ cost assessment)

FTO impact assessment (duration, cost, risk of disruption)

- Employers should consult on collective dismissals with "appropriate representatives". This means any TU representatives or other existing ERs (if any). If there are none, elections should be arranged to appoint ERs for this purpose.
- Please refer to basic redundancy rights (see 'Payments' column).
- If there is no contractual right to enhanced redundancy pay, employers may negotiate enhanced payments in a collective redundancy situation (although this is not strictly required).

Duration/timing

Minimum 1-2 month process depending on the number of dismissals and whether ER elections need to be arranged (excluding planning/preparation phase). If collective consultation threshold not met, individual dismissals may be effected more quickly.

Cost

Starting point is the minimum legal entitlements (see 'Payments' column). Additional severance may be negotiated to secure a waiver of claims. Retention incentives may also be used to encourage employees to remain engaged until the termination date.

Risk of disruption

Minimal. I&C does not have to end in agreement and employer can implement redundancies once statutory requirements have been complied with. However, disruption may also depend on factors such as overall quality of industrial relations and nature of business and workforce.

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