

COUNCIL DIRECTIVE

of 17 February 1975

on the approximation of the laws of the Member States relating to collective redundancies

(75/129/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament⁽¹⁾;

Having regard to the Opinion of the Economic and Social Committee⁽²⁾;

Whereas it is important that greater protection should be afforded to workers in the event of collective redundancies while taking into account the need for balanced economic and social development within the Community;

Whereas, despite increasing convergence, differences still remain between the provisions in force in the Member States of the Community concerning the practical arrangements and procedures for such redundancies and the measures designed to alleviate the consequences of redundancy for workers;

Whereas these differences can have a direct effect on the functioning of the common market;

Whereas the Council resolution of 21 January 1974⁽³⁾ concerning a social action programme makes provision for a Directive on the approximation of Member States' legislation on collective redundancies;

Whereas this approximation must therefore be promoted while the improvement is being maintained within the meaning of Article 117 of the Treaty,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

Definitions and scope

Article 1

1. For the purposes of this Directive:

(a) 'collective redundancies' means dismissals effected by an employer for one or more reasons not

⁽¹⁾ OJ No C 19, 12. 4. 1973, p. 10.

⁽²⁾ OJ No C 100, 22. 11. 1973, p. 11.

⁽³⁾ OJ No C 13, 12. 2. 1974, p. 1.

related to the individual workers concerned where, according to the choice of the Member States, the number of redundancies is:

— either, over a period of 30 days:

(1) at least 10 in establishments normally employing more than 20 and less than 100 workers;

(2) at least 10 % of the number of workers in establishments normally employing at least 100 but less than 300 workers;

(3) at least 30 in establishments normally employing 300 workers or more;

— or, over a period of 90 days, at least 20, whatever the number of workers normally employed in the establishments in question;

(b) 'workers' representatives' means the workers' representatives provided for by the laws or practices of the Member States.

2. This Directive shall not apply to:

(a) collective redundancies affected under contracts of employment concluded for limited periods of time or for specific tasks except where such redundancies take place prior to the date of expiry or the completion of such contracts;

(b) workers employed by public administrative bodies or by establishments governed by public law (or, in Member States where this concept is unknown, by equivalent bodies);

(c) the crews of sea-going vessels;

(d) workers affected by the termination of an establishment's activities where that is the result of a judicial decision.

SECTION II

Consultation procedure

Article 2

1. Where an employer is contemplating collective redundancies, he shall begin consultations with the workers' representatives with a view to reaching an agreement.

2. These consultations shall, at least, cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and mitigating the consequences.

3. To enable the workers' representatives to make constructive proposals the employer shall supply them with all relevant information and shall in any event give in writing the reasons for the redundancies, the number of workers to be made redundant, the number of workers normally employed and the period over which the redundancies are to be effected.

The employer shall forward to the competent public authority a copy of all the written communications referred to in the preceding subparagraph.

SECTION III

Procedure for collective redundancies

Article 3

1. Employers shall notify the competent public authority in writing of any projected collective redundancies.

This notification shall contain all relevant information concerning the projected collective redundancies and the consultations with workers' representatives provided for in Article 2, and particularly the reasons for the redundancies, the number of workers to be made redundant, the number of workers normally employed and the period over which the redundancies are to be effected.

2. Employers shall forward to the workers' representatives a copy of the notification provided for in paragraph 1.

The workers' representatives may send any comments they may have to the competent public authority.

Article 4

1. Projected collective redundancies notified to the competent public authority shall take effect not earlier than 30 days after the notification referred to in Article 3(1) without prejudice to any provisions governing individual rights with regard to notice of dismissal.

Member States may grant the competent public authority the power to reduce the period provided for in the preceding subparagraph.

2. The period provided for in paragraph 1 shall be used by the competent public authority to seek solutions in the problems raised by the projected collective redundancies.

3. Where the initial period provided for in paragraph 1 is shorter than 60 days, Member States may grant the competent public authority the power to extend the initial period to 60 days following notification where the problems raised by the projected collective redundancies are not likely to be solved within the initial period.

Member States may grant the competent public authority wider powers of extension.

The employer must be informed of the extension and the grounds for it before expiry of the initial period provided for in paragraph 1.

SECTION IV

Final provisions

Article 5

This Directive shall not affect the right of Member States to apply or to introduce laws, regulations or administrative provisions which are more favourable to workers.

Article 6

1. Member States shall bring into force the laws, regulations and administrative provisions needed in order to comply with this Directive within two years following its notification and shall forthwith inform the Commission thereof.

2. Member States shall communicate to the Commission the texts of the laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 7

Within two years following expiry of the two year period laid down in Article 6, Member States shall forward all relevant information to the Commission to enable it to draw up a report for submission to the Council on the application of this Directive.

Article 8

This Directive is addressed to the Member States.

Done at Brussels, 17 February 1975.

For the Council

The President

R. RYAN