

FRANCE

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1. Are there any laws that govern a layoff of employees? If so, what do the laws require?

Before proceeding to any layoffs, the employer has a legal obligation to research any redeployment (reclassifying) opportunities within the company group. He has also the obligation to define the criteria (as for example: age, family situation, abilities...) to determine the order of the redundancies within the same category.

Measures governing the redundancy are codified in the Labor Code (“Code du Travail”) except when collective agreements (“convention collective) are more favorable and in particular with regard compensations (allowances). The rules with regard redundancy legal obligations depend on the number of employees whose redundancy is envisaged as well as the number of employees in the company

The employees have a priority (so they wish) regarding any recruitment done by the company within the year following the year of their redundancy.

There are three types of redundancy procedure

- **redundancy of one employee;**
- **redundancy from two up to nine employees in a 30day period**
- **Redundancy of more than ten employees: In that case and if the company has more than 50 employees, the employer has to draw up a job preservation plan submitted to the works committee (“comité d’entreprise).**

2. Are there any formal requirements for terminating an employee or groups of employees?

a) As for any layoff the economic motivation has to set up. In this regard the economic motivation is defined by law for three issues and two issues were added by case law. The legal validity of the redundancy depends on the drafting of the letter of the redundancy which has to set up precisely the motivation in an absolute formal way which reproduce the terms of the law or case law.

b) Before any redundancy notification, compulsory consultations issues which depend on the number of redundancy envisaged and the number of employee in the company. There is either i) a preliminary interview of the concerned employees, or ii) a consultation of the staff representatives (délégué du personnel) and a preliminary interview or iii) a consultation of the works committee with regard the job preservation plan.

c) Specific schedule has to be compulsory followed according to the law or Collective agreements (provided collective agreements are more favorable than the law) or a case by case basis a “redundancy methodology agreements” (accord de méthode) which cannot be less favorable that law or collective agreements.

3. Are there special legal requirements for a layoff caused by redundancy in the workforce?

No, except for the schedules and notice period which are different for white collar (“cadre”) and blue collar (“non cadre”).

4. Are there employment laws that laid-off employees can use to challenge their inclusion in the layoff?

Yes. A laid-off employee may use any anti-discrimination laws to challenge his/her inclusion in the layoff. For example: (a) I was included in the layoff because of my [race/age/national origin/religion/disability/gender, etc.]; or (b) The layoff has a disparate impact on employees based on [those same categories]; or (c) I was included in the layoff to retaliate against me for complaining about sexual or moral harassment

5. What sanctions or penalties may be imposed against employers for violating any of the requirements mentioned in Nos. 1-4 above?

The penalties differ according to the neglects committed by the employer:

a) Absence or not enough relevant job preservation plan: The employer has to pay the salaries that the laid-off should have been perceived for the period between his redundancy and the decision of Court stating in favor of the employees and has to reinstate the employee in the company, except when this one is closed or if the employee does not wish so. In these latter cases, the minimum is twelve months allowances.

b) Non compliance with the formalities of the procedure: allowances are based on the damages, but as a general rule the law or the case law provide for the employee with a one month allowance

c) Should the economic motivation be considered by the judge as being non-existent: allowances are based on the damages if the employee has less than two year of seniority in a company which employs less than ten employees bearing in mind that if the employee has at least a two year seniority and the company employs more than ten employees, the minimum allowances is six month.

6. What are the one or two most common mistakes that employers make that lead to liability for a layoff?

The main two mistakes are i) the drafting of the redundancy notification letter and ii) the formal procedure regarding the redeployment plan to be proposed to the employees.

7. What other employment issues are likely to arise from a layoff in your jurisdiction that you have not addressed in your answers to the previous questions?

Should staff representative (“délégué du personnel”) works committee representatives or trade union representative be included in the lay offs labor authorities authorization has to be obtained by only for these employees.