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Judgment of the Court in Case C-196/23 | [Plamaro] ¹

The collective redundancies directive also applies in the event of the employer's retirement

A businessperson took retirement. His departure resulted in the termination of 54 employment contracts in eight of his business establishments. Eight employees challenged the unlawful dismissal of which they considered they had been the object. Their action was dismissed. The Spanish court hearing the appeal must determine the validity of the terminations of the employment contracts.

Spanish law provides for a procedure of consultation of workers' representatives in the event of collective redundancy. However, that procedure does not apply in cases where terminations have been the result of the retirement of a natural person employer. The Spanish court wonders, however, whether that exclusion complies with the EU directive on collective redundancies ¹. It has therefore referred questions to the Court of Justice on that point.

The Court recalls, first of all, that **the main objective** of the directive **is to make collective redundancies subject to prior consultation with the workers' representatives and the notification of the competent public authority**. It adds that, according to its settled case-law, there are **collective redundancies**, within the meaning of that directive, when there are **terminations of employment contracts without the consent of the workers** concerned.

Therefore, it considers that **the Spanish law is contrary to the directive. That law applies, in the event of the employer's retirement**, where the threshold numbers of dismissals provided for are attained ². The Court states that **this situation cannot be treated in the same way as one in which the employer has died** - in relation to which it has previously held that the directive did not apply ³ - since, unlike a situation in which the employer has died, the employer who retires is, in principle, capable of conducting consultations seeking, inter alia, to avoid the terminations or to reduce their number or, in any event, to mitigate the consequences.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of an EU act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

¹ The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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¹ [Council Directive 98/59/EC](#) of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies.

² Over a period of 30 days: at least 10 in establishments normally employing more than 20 and less than 100 workers; at least 10% of the number of workers in establishments normally employing at least 100 but less than 300 workers; 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. For the purpose of calculating the number of redundancies, terminations of an employment contract which occur on the employer's initiative for one or more reasons not related to the individual workers concerned shall be assimilated to redundancies, provided that there are at least five redundancies.

³ Judgment of the Court of 10 December 2009, Rodríguez Mayor and Others, [C-323/08](#).