



*Directorate-General for Library,  
Research and Documentation*

## **RESEARCH NOTE**

### **Collective redundancies**

[...]

**Subject:** Whether, in the legal systems of the Member States, there exist mechanisms for prior authorisation under which, in addition to the matters provided for in Articles 3 and 4 of Directive 98/59/EC, the competent public authority is required to review the substantive conditions under which a collective redundancy is to take place and, in appropriate cases, may oppose such a redundancy.

[...]

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[...]

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## SUMMARY TABLE

### INTRODUCTION

1. The mandatory procedure that must be followed in the event of a collective redundancy in the European Union is laid down by Directive 98/59/EC.<sup>1</sup> In particular, Articles 3 and 4 of that directive lay down an obligation for the employer to notify the competent public authority of any planned collective redundancy and also specify the period allowed the authority in order to implement measures of protection (and the manner in which that period may be extended).
2. More specifically, it is the mechanism for the prior authorisation of collective redundancies by the competent public authority [...] that is [...] at the origin of this research note. [...]
3. [...] T]he purpose of this note is to ascertain whether there exist in the legal systems of the Member States mechanisms for prior authorisation under which, in addition to the matters provided for in Articles 3 and 4 of Directive 98/59/EC, the competent public authority is required to review the substantive conditions under which a collective redundancy is to take place and, in appropriate cases, may oppose such a redundancy.
4. Research has been carried out into the legal systems of the 28 Member States.
5. In 25 of the legal systems, the research has not uncovered any such prior authorisation mechanism. [...] **G]reece** [...] and] **the Netherlands** are currently the only Member States of the European Union to have this type of mechanism. In **Spain**, such a mechanism did exist in the past, but it was abolished in 2012.
6. Under Netherlands law, after a planned redundancy has been notified to the workers' representatives and to the Employee Insurance Agency, the employer must send a request for authorisation to terminate the contract of each employee it wishes to make redundant to the agency or, as appropriate, to a redundancy committee set up on the basis of a collective agreement. The grounds for the termination of contracts of employment in the event of a collective redundancy must be either the cessation of the business in question or the withdrawal of positions of employment, which must be planned to take place within the 26 weeks following the adoption of the organisational measures that have become necessary for economic reasons. The employer is not required to prove the necessity of such organisational measures. Indeed, such necessity will already have been appraised by the workers' representatives in the context of the notification of the collective redundancy.
7. In addition, in **Spain**, the prior authorisation mechanism which existed until recently

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<sup>1</sup> Council Directive of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ 1998 L 225, p. 16).

was abolished by a law of 6 July 2012. Prior to that reform, while the consultation period terminated on an agreement being reached by the parties, it was necessary for the administrative authority to adopt a resolution approving the collective redundancy. If no agreement was reached by the parties, the administrative authority could refuse the request for authorisation of the collective redundancy if it found that the grounds relied on by the company were unreasonable. The law specified that the administrative authority must grant authorisation if the documents submitted by the company disclosed the grounds for the redundancy and showed that the redundancy was reasonable. Today, there is no longer any need for the administrative authority to give prior authorisation for a collective redundancy. In the preamble to the law of 6 July 2012, the legislature stated that the abovementioned mechanism delayed the process of company restructuring, which must be swift. Thus, the new national laws are intended to prevent excessive delay in the procedure for collective redundancy.

[...]

**PRIOR AUTHORISATION MECHANISM UNDER WHICH, IN ADDITION TO THE MATTERS PROVIDED FOR IN ARTICLES 3 AND 4 OF DIRECTIVE 98/59/EC, THE COMPETENT PUBLIC AUTHORITY IS REQUIRED TO REVIEW THE SUBSTANTIVE CONDITIONS UNDER WHICH A COLLECTIVE REDUNDANCY IS TO TAKE PLACE AND, IN APPROPRIATE CASES, MAY OPPOSE SUCH A REDUNDANCY**

<b>Existence</b>	<b>Greece, Netherlands</b>
<b>Repealed</b>	Spain (July 2012)
<b>Absence</b>	Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, United Kingdom

