



PRESS RELEASE No 121/23

Luxembourg, 13 July 2023

Judgment of the Court in Case C-134/22 | G GmbH

Collective redundancies: the employer's obligation to communicate information to the authorities at an early stage of such a project is not intended to confer individual protection on workers

That communication is for information and preparatory purposes only and merely serves to give the competent public authority a general idea of the reasons for, and implications of, the planned redundancies

On 28 January 2020, an employee who had been working at the German undertaking G GmbH since 1981 was informed that his contract of employment with G GmbH would be terminated. Insolvency proceedings had been initiated in respect of G GmbH on 1 October 2019 and, on 17 January 2020, it was decided that G GmbH would cease all business operations by no later than 30 April 2020 and that there would be collective redundancies.

The procedure for consultation of the works council, acting as the workers' representative, was initiated on the same date, 17 January 2020. In the context of that consultation, the information referred to in the directive on collective redundancies¹ was communicated to the works council. However, no copy of that written communication was forwarded to the competent public authority, in this instance, the Osnabrück Employment Agency (Germany).

On 22 January 2020, the works council stated that it did not see any way in which the projected redundancies might be avoided. On 23 January 2020, the projected collective redundancy was notified to the Osnabrück Employment Agency, which then scheduled advisory appointments for the majority of the workers affected by the projected redundancy.

In an action before the German courts, the employee concerned claimed that a copy of the communication sent to the works council on 17 January 2020 had not been forwarded to the competent public employment agency. He argued that forwarding that communication was a condition for the validity of the dismissal.

The Federal Labour Court, which is reviewing the case in an appeal on a point of law, considers that that omission constitutes an infringement of the German law transposing the EU directive into national law. However, neither the directive nor national law provides for an express penalty for such an infringement. In those circumstances, the Federal Labour Court has doubts as to whether the infringement necessarily renders a dismissal null and void. For the purposes of the analysis to be carried out by that court, it is essential to determine whether the rule in question is intended to give workers individual protection. The Federal Labour Court therefore decided to refer a question on that point to the Court of Justice.

In its judgment delivered today, the Court of Justice replies in the negative: the obligation of an employer who is contemplating collective redundancies to forward to the competent public authority a copy of, at least, certain elements of the written communication which the employer sent to the workers'

¹ The second subparagraph of Article 2(3) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (OJ 1998 L 225, p. 16).

representatives for consultation purposes is not intended to confer individual protection on the workers concerned.

First, the Court considers that the forwarding of the information in question merely serves to give the competent public authority an idea, inter alia, of the reasons for the projected redundancies, the number and categories of workers to be made redundant and the period over which the projected redundancies are to be effected. That authority cannot therefore rely entirely on that information in order to prepare the measures falling within its sphere of competence in the event of a collective redundancy.

Secondly, the Court notes that the competent public authority is not given any active role during the consultation procedure involving workers' representatives. It is merely designated as the recipient of a copy of certain elements of the communication in question, in contrast to the active role which it plays at subsequent stages of the procedure. Furthermore, the forwarding of the information in question does not trigger a time limit that must be observed by the employer or create an obligation on the part of the competent public authority.

Therefore, the forwarding of information occurs only for information and preparatory purposes so that the competent public authority can, if necessary, exercise its subsequent powers effectively. The obligation to forward information is thus intended to enable that authority to anticipate as far as possible the negative consequences of projected collective redundancies in order to be able to seek solutions effectively to the problems raised by those redundancies when it is subsequently notified of them. In the light of the purpose of forwarding that information and of the fact that it occurs at a stage where the collective redundancies are merely contemplated by the employer, the action of the competent public authority is intended not to deal with each worker's individual situation but to gain an overall understanding of the projected collective redundancies.

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.

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

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎(+352) 4303 3355.

Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎(+32) 2 2964106.

Stay Connected!

