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Costing collective redundancies: a global overview

A guide covering 25 countries

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Following the COVID-19 pandemic, many employers have had to look for new ways to organise themselves. As a result, it is more important than ever to have an overview of the possible costs and impact of making redundancies through a social plan, especially one involving different jurisdictions. Ius Laboris has carried out a global survey of more than 20 countries, to give you a detailed roadmap through which employers can easily find their way.

A few introductory points: first of all, keep in mind that some expenses cannot be avoided. One clear example of this is notice periods for dismissal. This can be a short period (e.g. in Kazakhstan and Spain) or longer (as in Slovakia and Italy). You also need to take into consideration the fact that each jurisdiction has its peculiarities, which cannot be ignored.

But the main budget to be assessed is likely to be possible incentives to leave, that is, amounts paid to employees in order to get waivers and avoid possible litigation. The higher the amount offered, the easier it should be to get the employee's consent.

In some countries, this calculation may be quite simple. For example, in Serbia, a minimum incentive to leave is mandatory and quantified by the law. However sometimes it may require a deeper analysis of the specific context, such as in Argentina, where the possible amount paid to ease an employee's exit depends on an agreement being reached between the parties.

In our analysis, we have made the following base assumptions:

» The employer intends to carry out a collective redundancy which falls within the scope of the country's legislation for collective dismissals.

» No agreement has been signed with unions in relation to this.

» In the analysis and for the preparation of the chart, we have considered the major sectors of activity (for example, industry and trade).

» In relation to salary, market practice has been used as a benchmark.

Fixed Costs

As mentioned, when putting together a social plan in the context of a mass redundancy, the first expenses that need to be taken into account are those that cannot be escaped.

Some countries do not have any specific definition of a 'social plan' or legislation on the topic. For example, in Sweden and Singapore, no special laws exist at all in relation to mass redundancy, making it impossible to identify the fixed expenses.

In New Zealand, no fixed costs are provided for by the law, as there are no specific statutory rules that apply when dismissing multiple employees. Brazil does not have any statutory regulation on collective dismissals and the statutory costs are calculated as a multiplication of individual dismissals. In Chile too collective dismissal does not exist; there are only rules relating to individual dismissals and where an employee is dismissed for reasons relating to the employer's needs, 30 days' notice are imposed by law.

SPAIN HIGHLIGHTS THAT IT IS NOT UNCOMMON TO PAY MORE THAN THE MAXIMUM LEGAL SEVERANCE PROVIDED FOR BY LAW IF THE GROUNDS FOR THE DISMISSAL ARE NOT SOLID, TO REACH AN AGREEMENT AND AVOID COLLECTIVE ACTIONS.

Notice period

The most common cost that employers need to bear when dismissing an employee is the notice period; that is, the remuneration to be paid for a certain period of time before the dismissal is effective or an or an indemnity in lieu of it.

Some countries impose a fixed number of months, weeks or days for notice periods. In Turkey, for instance, the period lasts eight weeks for each level of employee, while in Thailand it lasts 30 days (this may be varied by individual contract) and in Spain 15 days.

In Slovakia, the notice period is equal to three months, regardless of any parameters. This is also the case for the two-month notice period in the Netherlands, and in Kazakhstan, where the notice period lasts one month.

Other countries have different lengths of notice period depending on seniority and level (Italy) or on individual agreement (Argentina). In France, lengths of notice periods are defined by collective bargaining agreements and depend on seniority, level and sometimes age.

In Croatia, the length of the notice period depends on the employee's period of service and on the type of dismissal: for business-related dismissals the range is between two weeks and three months. In Ireland, too, the notice to be given to the employees depends on their length of service.

Conversely, Finland imposes a maximum cap of six months for notice periods.

A peculiarity of Greek law is that the indemnity in lieu of the notice period is not subject to tax or social security contributions, unless the amount to be paid is EUR 60,000 or more.

In Serbia and in Italy, the duration of the procedure is linked to the number of employees involved, meaning that reducing the number of redundant employees under the relevant threshold would

In Spain, the collective redundancy procedure lasts 45 days if the organisation employs more than 50 employees; otherwise, it lasts 37 days.

In Italy, National Collective Bargaining Agreements provides for specific procedures in the event of mass redundancies or operations affecting the workforce. The validity of the mass redundancy may be affected if these are not applied.

Notice period costs

COUNTRY	NOTICE* FIXED/VARIABLE	LENGHT
ARGENTINA	VARIABLE	NORMALLY 2 MONTHS
BELARUS	FIXED	2 MONTHS
BULGARIA	FIXED	1-3 MONTHS
CHILE	FIXED	30 DAYS
COLOMBIA	–	–
CROATIA	FIXED	60 DAYS
DENMARK	VARIABLE	56 DAYS - 12 MONTHS
FINLAND	VARIABLE	–
FRANCE	VARIABLE	2-6 MONTHS
GERMANY	–	–
GREECE	VARIABLE	0-100 DAYS
IRELAND	FIXED	4 WEEKS
ITALY	VARIABLE	10-240 DAYS
KAZAKHSTAN	FIXED	1 MONTH
MEXICO	–	–
NEW ZEALAND	–	–
SERBIA	–	–
SINGAPORE	–	–
SLOVAKIA	FIXED	3 MONTHS
SPAIN	FIXED	15 DAYS
SWEDEN	–	–
THAILAND	FIXED	30 DAYS
NETHERLANDS	FIXED	2 MONTHS
TURKEY	FIXED	8 WEEKS
UK	VARIABLE	5-24 WEEKS
**ASSUMING A LENGTH OF SERVICE OF FIVE YEARS*		

Mass redundancy procedure

Many countries also impose a specific redundancy procedure, which implies costs related to salary and contributions that must be paid to employees throughout the procedure. In Turkey and in the UK, this period lasts 30 days. Sometimes this period can be longer depending on the number of employees involved; this is the case in Argentina.

In Spain a minimum of 30 days must elapse between the date when the consultation period with the employment authority starts and the effective date of termination of the employment.

Italian law provides for a specific procedure applicable for mass redundancies that lasts for a maximum of 75 days (though if there are fewer than ten employees involved, this can be halved).

COUNTRY	MASS REDUNDANCY PROCEDURE: YES/NO	LENGTH
ARGENTINA	YES	–
BELARUS	YES	3 MONTHS
BULGARIA	YES	2/3 MONTHS
CHILE	NO	–
COLOMBIA	YES	APPROXIMATELY 2 MONTHS
CROATIA	YES	APPROXIMATELY 60 DAYS
DENMARK	YES	MINIMUM 30 DAYS
FINLAND	YES	70 DAYS
FRANCE	–	–
GERMANY	YES	14 DAYS – 6 WEEKS
GREECE	YES	2 TO 5 MONTHS
IRELAND	YES	35 DAYS
ITALY	YES	75 DAYS
KAZAKHSTAN	NO (ONLY INDIVIDUAL REDUNDANCY PROCEDURE)	–
MEXICO	–	–
NEW ZEALAND	–	–
SERBIA	YES	60 DAYS
SINGAPORE	–	–
SLOVAKIA	YES	45 DAYS
SPAIN	YES	37-45 DAYS
SWEDEN	–	–
THAILAND	NO	–
NETHERLANDS	YES	4 MONTHS
TURKEY	YES	30 DAYS
UK	YES	AT LEAST 30 DAYS

In France, the length of the consultation period depends on the number of redundancies envisaged. It can be one, two, three or four, months, to which must be added the time necessary either to obtain the approval of the labour administration on the latest version of the redundancy plan if at least ten employees are concerned (two to three weeks) or to conduct the individual part of the procedure if fewer than ten employees are concerned.

In Serbia, employers must pay full salary to employees involved in the redundancy procedure for 60 days (the full duration of the procedure).

In Belgium an information and consultation procedure with employee representatives is also provided, however there is no fixed duration. Based on statistics from the Belgian Ministry for Employment (the Federal Public Service Employment, Labour and Social Dialogue), an average consultation took about 105 days in 2021, with a median of 85 days.

For Dutch employers, the reasons for the collective dismissal affect the amount of the severance payment. Collective dismissals due to organisational changes or strategic reasons usually lead to higher severance payments than, for example, reorganisations due to a poor or worsening financial situation.

Other fixed costs

Regardless of the procedure, in Finland organisations employing at least 30 employees must offer outplacement to any employees that have been employed by the company for at least five years at the time of termination of their employment. The value of the outplacement generally corresponds to one month of the employee's salary.

In France, employers are required to pay a statutory severance payment (dismissal indemnity) calculated according to a formula set out in the Labour Code or in the applicable collective agreement (whichever is more favourable to the employee). It is generally based on the employee's length of service. For example, the legal dismissal indemnity is 25% of the average gross monthly salary per year of service for the first ten years and one-third of the average gross monthly salary per year of service beyond ten years. The indemnity sometimes increases according to the employee's age. In addition, employers are required to offer a social plan which contains a variety of employee support measures to be discussed with the works council or with labour unions (redeployment leave, outplacement, mobility assistance, training, support for setting up a business, additional severance payments, early retirement, etc). The final version of the social plan must be approved by the labour authorities. A special tax may also have to be paid to the French authorities if the number of redundancies has an impact on the labour market in the region (up to four times the minimum monthly wage for each job eliminated).

In Mexico, redundancies are considered to be equivalent to unjustified dismissals (i.e. without cause). Consequently, although no notice period is provided for by law, employers have to pay severance compensation including the following elements:

- 90 days' consolidated salary;
- Christmas bonus of 15 days' salary, calculated proportional to the number of days worked in the year (January through to December);
- Vacation as stated by the law. This must be calculated proportional to the number of days worked in the last period, according to the employee's anniversary date.
- Vacation bonus: 25% of the result of vacation payment. This is calculated proportionally to the number of days worked in the last period, according to the employee's anniversary date.

- Seniority premium calculated as 12 days of double the minimum salary per service year.

- 20 days of consolidated salary per year of service: this is subject to tax but not social security contributions.

- Any other payment agreed in the individual employment contract.

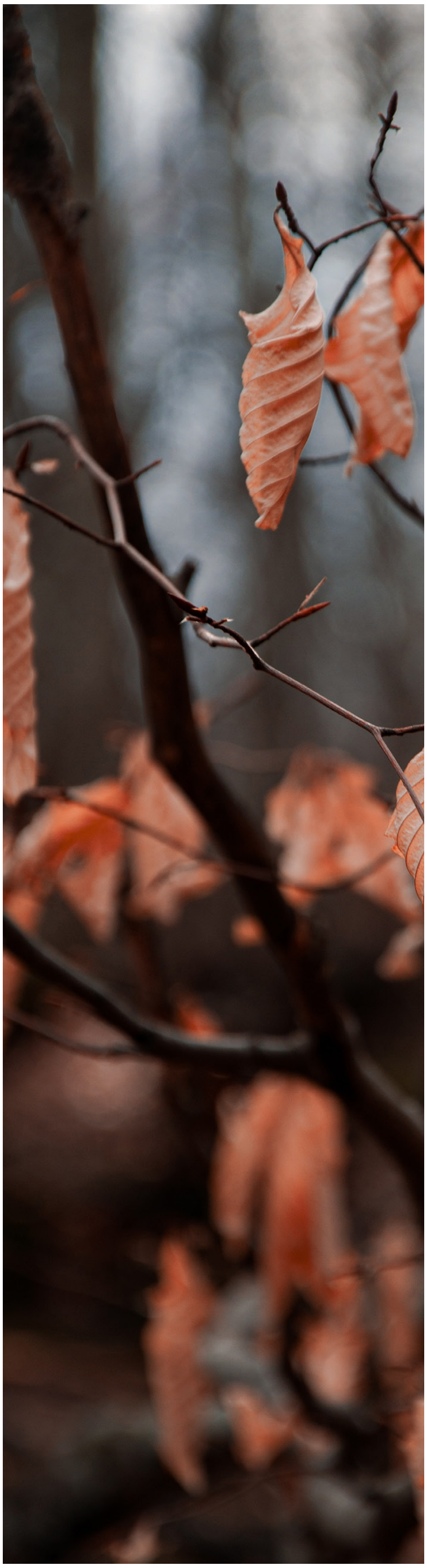
In Italy, there is a further fixed cost to be considered: the 'unemployment ticket'. This is a contribution to unemployment allowance (NASpI) to be paid to the National Social Security Body. It is updated each year and could amount to as much as EUR 10,000 for each employee, depending on multiple conditions (length of service of the employee, sector of activity of the organisation, any agreement with unions, etc.).

In addition, in Italy the fixed costs could increase if the possible termination of the activity implies redundancies.

In France, the labour authorities can refuse to approve a social plan if the collective redundancy procedure was not respected or the plan is considered insufficient. The procedure and costs can vary significantly based on factors including the size and profitability of the group, the number of redundancies planned and sites impacted, and applicable collective bargaining agreements. Employers should prepare well in advance and get legal advice.

Greek law provides for a social plan procedure when collective dismissals take place. Social plans can include coverage for self-insurance or training and counselling and access to special unemployment office programmes. Currently, these procedures are not widely used in Greece.

If a Slovakian employer fails to comply with the procedure, it may face a fine up to EUR 100.000 from the Labour Inspectorate.



What to consider when calculating exit packages

As mentioned, identifying the budget to be set aside for possible 'exit package' on top of mandatory costs is critical in the context of a social plan.

However, in some cases this is not necessary, in Belarus, for instance, there is no need to make additional payments to employees other than those provided by the law, including incentive payments to ease employees' exit.

In Colombia, since collective dismissals only happen when there is a unilateral termination without cause, there is only an indemnity for dismissal without cause in practice and employers are not required to provide any additional incentives.

UK provisions include a specific formula to be followed when calculating the maximum statutory redundancy payment. This takes into account length of service, weekly pay and the employee's age.

In Germany, in most cases, severance payments in social plans are calculated according to a fixed formula that is linked to transparent criteria (e.g. length of service) and is agreed in the social plan. The following calculation is frequently found for the basic severance payment amount:

FACTOR X LENGTH OF SERVICE X GROSS ANNUAL INCOME DIVIDED BY 12

These benefits are combined with additional benefits (e.g., benefits payable due to special maintenance obligations or severe disability) and deductions (e.g., years close to retirement). The amount of the severance payment depends on individual factors (such as the expected duration of unemployment, age, reduction in income, consideration of voluntary redundancy, discontinuation of special benefits or loss of entitlements to company pensions, relocation costs or increased travel expenses and special disadvantages for severely disabled persons) and the volume of the social plan.

- In Denmark, benefits, in addition to statutory entitlements, are an essential part of the negotiations with the employee. Typical benefits might include the possibility for the employee to be released from work duties, outplacement, extraordinary severance pay and training.
- In Ireland, although a payment in lieu of notice technically should not be made in respect of the two-week statutory notice period, nevertheless, in practice, employers often do make a payment in lieu in respect of this notice period. The risk of doing so is low in circumstances where an employee receives an ex-gratia payment in return for executing a severance agreement, waiving their right to bring any claim against the company.

Conversely, in Turkey no specific formulas are provided. There is, however, a cap for severance payments at TRY 8.284,51.

In Belgium specific formulas do not exist either. Taking into account social plan benchmark experience in rather expensive industries (such as chemistry and pharmaceuticals and the metal industry), a possible incentive to leave could be equal to 180% of the legal severance cost for white-collar employees and 300% of the legal severance cost for blue-collar employees.

In Spain, the minimum amount to be awarded as an exit package is 20 days' salary per year of service. The penalty awarded in the event of an unfair dismissal depends on the relevant working period (the main distinction here is whether employment started before or after 12 February 2012).

Unfair dismissals in Slovakia require salary compensation in a range between 12 and 36 monthly salaries. The possible exit package to grant employee in case of agreement should be calculated on the basis of this risk.

In France, in addition to the statutory costs and other costs for financing the social plan, employees can challenge their dismissal within 12 months in order to obtain damages for unfair dismissal. The minimum and maximum amount of damages for unfair dismissal is set by the Labour Code according to the seniority of the employee.

In many countries, the amount to be paid to employees to ease their exit is based on the possible risks of unfair dismissal. This is true in Kazakhstan, where the amount usually agreed as possible compensation is between three and six months' salary. In Ireland, the employer usually pays the employee a minimum of an additional two weeks per year and a maximum of five weeks per week of service on the basis of risk and on top of statutory payments, by way of an ex-gratia payment.

Conclusion

Many factors and items affect the possible costs of a programme of planned redundancies. The above analysis represents a useful tool for employers to identify a possible budget for a social plan, but it does not exclude the need for a more in-depth analysis focused on the specific employer's situation.

Ius Laboris member firms are available to support your organisation in advising or assisting with this analysis, whatever countries are involved.

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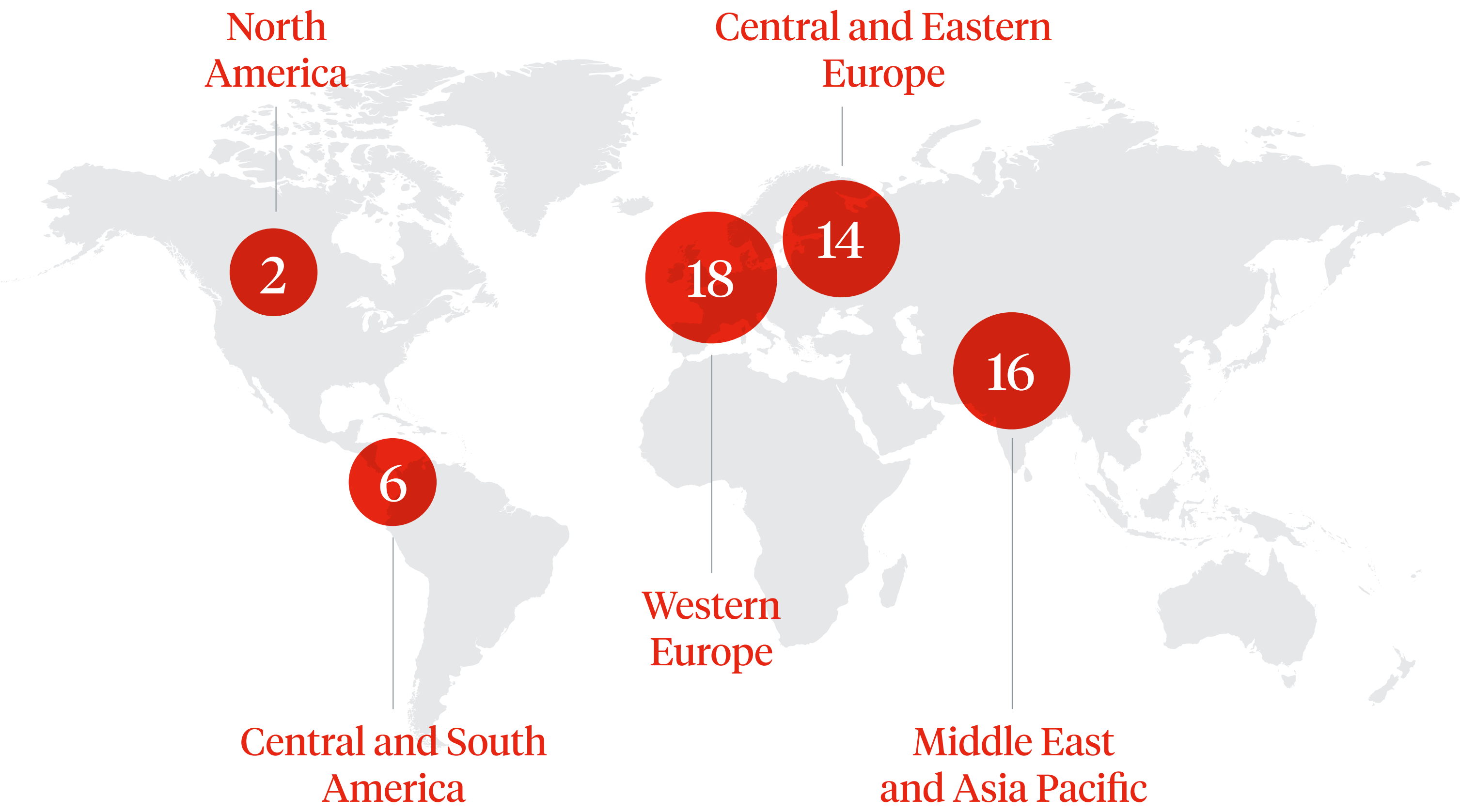
Ius Laboris Geographical Coverage



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