Global labor and employment law strategic guide – workforce transformation

November 2023

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Building a better working world

Editor's letter

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In today's economic climate, pressure is increasing on organizations to optimize the efficiency of their workforce and the costs of their business. For many organizations, there is now an urgent need to adapt to changes in both global and national markets.

We have heard regular announcements of major headcount reductions throughout this year. In the beginning, most such announcements came from multinational corporations in the technology sector, but other sectors were soon to follow. Companies are now bracing for an uncertain future by implementing hiring freezes and, in some cases, drastically reducing the size of their workforce.

However, employers will need to proceed carefully when planning a workforce transformation project. Labor and employment law issues can become significantly challenging for business transformations. Managing workforce retention and reduction programs is crucial for success.

In a workforce transformation project, key issues include legal justification, as well as information and consultation obligations in relation to employee representatives. Even a generically worded announcement of headcount reduction programs and other cost-saving measures may trigger consultation obligations in certain jurisdictions. Thus, when planning a workforce transformation, it is important that employers have a good understanding of the regulatory landscape to ensure compliance with local laws and regulations.

In multinational organizations, legal regulations in different jurisdictions, each with separate process requirements can make global restructuring challenging and complex. Generally, it will not be possible to go with a one-size-fits-all approach. Failure to properly address workforce issues include many risks that may damage employee relations, the organization's brand and its business relationships.

In this edition of EY Global labor and employment law strategic guide, we survey legal regulations on workforce transformation in 48 jurisdictions globally.

Summary

Jurisdiction: (Click jurisdiction name to access full report)	Are there any statutory regulations to observe when planning for a workforce transformation (e.g., downsizing, strategy changes or similar)?	Is there an obligation for the employer to inform or consult changes with trade unions, works councils or other employee representatives?	Do trade unions, works councils or other employee representatives have decision-making powers or veto rights with respect to an organizational change?	Must an employer put a social plan in place?	Does the employer need to notify labor authorities or other government authorities?
Albania	✓	✓	✗	✓	✓
Argentina	✓	✗	✗	✗	✗
Australia	✓	✓	✗	✗	✓
Austria	✓	✓	✗	✗	✗
Azerbaijan	✓	✓	✓	✓	✗
Belgium	✓	✓	✗	✗	✓
Brazil	✓	✓	✗	✗	✓
Bulgaria	✓	✓	✗	✗	✓
Colombia	✓	✓	✗	✗	✓
Costa Rica	✓	✗	✗	✗	✗
Croatia	✓	✓	✗	✗	✓
Cyprus	✓	✓	✗	✗	✓
Czech Republic	✓	✓	✗	✗	✓
Denmark	✓	✓	✗	✗	✓
Estonia	✓	✓	✗	✗	✓
Finland	✓	✓	✗	✗	✓
France	✓	✓	✗	✓	✓

Summary (contd.)

Jurisdiction: (Click jurisdiction name to access full report)	Are there any statutory regulations to observe when planning for a workforce transformation (e.g., downsizing, strategy changes or similar)?	Is there an obligation for the employer to inform or consult changes with trade unions, works councils or other employee representatives?	Do trade unions, works councils or other employee representatives have decision-making powers or veto rights with respect to an organizational change?	Must an employer put a social plan in place?	Does the employer need to notify labor authorities or other government authorities?
Georgia	✓	✓	✗	✗	✓
Germany	✓	✓	✗	✓	✓
Greece	✓	✓	✗	✗	✓
Hong Kong	✓	✗	✗	✓	✓
Hungary	✓	✓	✗	✓	✓
Indonesia	✓	✓	✗	✗	✓
Ireland	✓	✓	✗	✗	✓
Italy	✓	✓	✗	✗	✓
Japan	✓	✗	✗	✗	✓
Kazakhstan	✓	✗	✓	✗	✓
Lithuania	✓	✓	✗	✗	✗
Luxembourg	✓	✓	✗	✓	✓
Mexico	✓	✓	✗	✗	✓
Netherlands	✓	✓	✗	✗	✓
New Zealand	✓	✓	✗	✗	✗

Summary (contd.)

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Norway	✓	✓	✗	✗	✓
Paraguay	✓	✓	✗	✗	✓
Peru	✓	✓	✗	✗	✓
Poland	✓	✓	✗	✗	✓
Portugal	✓	✓	✗	✗	✓
Romania	✓	✓	✗	✓	✓
Slovakia	✓	✓	✗	✓	✓
Slovenia	✓	✓	✗	✓	✓
Spain	✓	✓	✗	✓	✓
Sweden	✓	✓	✗	✗	✓
Switzerland	✓	✓	✗	✓	✓
Turkey	✓	✓	✗	✗	✓
Ukraine	✓	✓	✓	✗	✓
United Arab Emirates	✓	✗	✗	✗	✓
United Kingdom	✓	✓	✗	✗	✓
Uruguay	✓	✗	✗	✗	✗

Albania

Planning a workforce transformation project

Workforce transformation may be necessary for a variety of economic or strategic reasons.

Pursuant to the labor code, collective terminations of employment contracts or collective redundancies must follow a specific procedure involving syndicates and public authorities.

To meet the criteria for a collective redundancy, the termination of employment relations by the employer must, not be for reasons pertaining to an individual employee's performance. If this has been established, then a collective redundancy definition will be satisfied if, within a minimum 90-day period, the following action has been taken:

- Dismissal of 10 employees (for organizations employing up to 100 employees)
- Dismissal of 15 employees (for organizations with 100 to 200 employees)
- Dismissal of 20 employees (for organizations with more than 200 employees)

If the above thresholds are met, along with the general provisions governing individual termination, the specific provisions of the labor law must be adhered to for a valid collective redundancy. This includes the application, and trigger, of a complex process that involves information provision and consultation procedures, as well as notification to the relevant labor authority (currently the Ministry of Finance and Economy).

Information provision and consultation obligations

When an employer foresees collective redundancies, it must inform the recognized employee representative body in writing. If there is no such organization, the employer must notify the employees via publication of a notice in a visible place in the workplace.

The notice must contain the following:

- The total number of employees in the organization
- The number of employees to be terminated
- The date and time when redundancies are due to take place

A copy of the notice must be sent to the Ministry of Finance and Economy.

The employer must consult with the employee representative organization (if there is one) with the aim of reaching an agreement. If there is no such organization, the employer must enable employees to take part in consultations.

Limiting the negative impact

The aim of the consultation is to agree on measures to be taken to avoid or limit the redundancies and, if redundancies are inevitable, mitigate their consequences. Consultations must be held for no less than 30 days (unless the employee decides on a longer duration), starting from the date of when the notice was sent to the relevant trade union(s), employee representative organization, the employees subject to the proposed collective redundancy and to the Ministry of Finance and Economy.

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The employer must notify the responsible ministry in writing of the termination of the consultation. And send a copy of the notice to the interested parties. If the parties have not agreed on the measures to limit the negative impact of redundancies, the ministry will assist the parties to reach an agreement within 30 days from the date of notification of the termination of consultations. The ministry cannot, in any scenario, prohibit collective redundancies.

The employer must notify each employee who will potentially be terminated, within the 30-day period outlined in the notice as mentioned above. As per the employment agreement, the employer may also need to respect the following notice periods for a standard or individual termination:

- Five days for employees who are still in their probation period
- Two weeks for employees who have worked in the organization for up to six months
- One month for employees who have worked in the organization for between six months and two years
- Two months for employees who have worked in the organization for between two and up to five years
- Three months for employees who have worked in the organization for more than five years

Post-termination, the employer must prioritize rehiring the terminated employees if the employer decides to hire individuals with similar qualifications to fulfil a business need.

Estimated timeline

Based on the provisions of the Albanian labor code regulating collective redundancy, the estimated timeline is as follows:

- Phase 1: Notification must be provided to the trade union or, in its absence, to the affected employees directly, prior to the termination procedure
- Phase 2: Employees must undertake consultations with the trade union or, in its absence, with the employees directly, for a period of not less than 30 days
- Phase 3: Potential additional consultations must be undertaken along with the Ministry of Finance and Economy for a maximum of 30 days
- Phase 4: Collective redundancy should be implemented by following the termination procedure, which may range from one to three months, depending on the length of employment of each impacted employee

Estimated costs

The key components of estimated HR legal costs are as follows:

- Payment for the notice period (the notice period depends on the number of years of service with the employer)
- Termination indemnity for failure to comply with the termination procedure
- Payment of unused annual leave
- Seniority compensation (if any), calculated as per the labor code provisions
- Social and health insurance contributions (until the end of the notice period)

Argentina

Planning a workforce transformation project

An organization that is undergoing a change in its operating model requires an organizational structure and teams with the capability to deliver the value proposition to the market in a differentiated and profitable manner.

Stages, information provision and consultation obligations

It is essential to frame the analysis of the workforce with a strategic understanding of the new operating model and the related organizational structure. This analysis and accompanying report will drive:

- Senior management approval
- Definition of the required capabilities that the organization and the employees must develop
- Options for the appropriate organizational structure for the future of the organization

Once a qualitative gap analysis between the desired state and the current state has been carried out, further analysis (e.g., productivity, operating volume projections etc.) will be required. This gap analysis may also refer to external benchmarks, such as industry-wide workforce comparisons or comparisons with organizations of a similar size.

Limiting the negative impact

Any successful transformation project must retain a focus on people. In dealing with people, the organization should aim to either preserve existing talent and guide those people toward developing new skills or provide people with a route to a respectful retirement or outplacement.

Estimated timeline

Timelines can vary depending on the magnitude of the change and the investment capacity of the company. In general, organizations should consider 12 weeks as an appropriate time for the initial stage of analysis, design, and planning. The next step is the implementation cycle, which could last from one to three years. The duration depends on the impact of the change and the availability of resources for technological transformation, upskilling, reskilling, and right-sizing of the workforce.

Regulatory and legal implications and estimated costs

Retirement and redundancy are the main costs facing an organization. Organizations therefore aim to accelerate the workforce transformation process rather than rely on "organic progression".

The employment relationship may be terminated in a number of prescribed circumstances, including:

- By mutual consent (e.g., a separation agreement)
- Following the expiration of a fixed-term contract
- Due to the employee's death or total disability
- Due to the employee's retirement

Nevertheless, the most common way to terminate a worker's employment is by a unilateral decision by one of the involved parties. Where there has been a dismissal without a "just cause," employees are entitled to both a statutory severance payment and additional compensation from the employer.

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When calculating a severance payment, the employer must take into account:

- Work performed up to and including the month of termination
- Accrued and non-used annual leave
- Accrued "13th month" salary

In addition, employers shall pay a mandatory severance package (Severance Payment), which comprises:

- Seniority pay, equal to one month's highest and regular gross salary received within the last 12 months of employment is applicable for each year of service or fraction thereof in excess of three months.
- Payment in lieu of notice, if the employer does not provide the other party with adequate notice of the dismissal. In such scenarios, the severance payment must take this into account and compensate in lieu of any omitted notice. The amount will be dependent on length of service as follows:
  - Half of one month (for employees in their probationary period)
  - One month (for employees with seniority between three months and five years)
  - Two months (for an employee with seniority of more than five years)
- When employers fail to provide notice to the employees who have progressed beyond the probationary period, the payment in lieu of notice must include the remaining days of the termination month. This payment is called the "integration of the month of dismissal."

However, even after their dismissal, employees may be entitled to demand additional payments, should they allege the existence of irregularities regarding registration of their hiring date or remuneration. Dismissed employees may complain to the tax authorities. Other penalties that may be claimed by former employees are related to the lack of delivery of their work certificates and that they have had to initiate a judicial claim to obtain their statutory severance payment.

Certain employees have special protection against dismissals. For example, union representatives cannot be dismissed:

- During their term of service as a union representative
- For a year after the conclusion of their service as a union representative

Australia

Planning a workforce transformation project

When planning a workforce transformation, HR leaders and teams know that local workplace laws must be followed. In Australia, the primary requirement is to notify and consult with employees and other relevant stakeholders, which may include unions and government bodies, such as Services Australia (the Australian welfare support agency).

Information and consultation obligations

In Australia, information and consultation obligations are mainly derived from legislation and industrial regulations. This includes the Fair Work Act 2009 (FWA), Modern Awards (MA) and Enterprise Agreements (EA). MA and EA generally include requirements to consult with employees where an employer makes a definite decision to make major changes in production, program, organization, structure or technology that are likely to have significant effects on employees. This includes requirements to give notice of the changes and to consult with the employees' representatives in advance of instituting any change.

Significant effects include:

- Termination of employment
- Major changes in the composition, operation, or size of the employer's workforce
- The need for employees to be retrained or transferred
- Job restructuring

Although employers are not required to obtain employee consent, they do have to consider employee concerns and personal needs.

Under the FWA, employers have an additional requirement to notify and consult with a union where they decide to dismiss 15 or more employees for structural reasons and at least one of those employees is a union member. An employer also has a legislative requirement to notify Services Australia before a dismissal of 15 or more employees takes place.

Employees and unions do not have the ability to veto such a workplace transformation. However, if an employer does not comply with the requirements to notify and consult under the FWA, then the aggrieved parties may seek relief from the industrial tribunal, the Fair Work Commission (FWC), which may include injunctive relief. It is important to consider that a restructuring may legally result in a termination, even if an employee has been offered the same job at another organization. For this reason, employers should consider complying with these obligations in a workforce transformation as if a termination is occurring.

Limiting the negative impact

Employers aren't required to put a social plan in place. However, to defend an unfair dismissal claim by an employee, employers should consider redeployment options for the employee both within the employer and among any related companies. This will generally be part of the notification and consultation process.

Another important consideration is redundancy pay. Under the FWA, payment entitlements can range from four weeks' base salary for one year of service to up to 16 weeks' base salary for nine years of service. Employers should aim to fall within the "transfer of

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employment" or "acceptable alternative employment" exemptions for providing redundancy pay, as outlined in the FWA. This generally revolves around obtaining offers of employment that recognize continuous service with the former employer and are "overall no less favorable" to the employee.

Estimated timeline

Generally, the timeline for a restructuring can take two to four weeks. This will depend on the consultation process and union involvement.

Estimated costs

Generally, employment law costs will be in the range of AUD7,500 to AUD15,000, depending on the number of employees, the number of industrial regulations and the nature of notification and consultation requirements.

Austria

Planning a workforce transformation project

When planning a workforce transformation, an employer must first decide on which of the many options they want to utilize for their project. Such projects will often be carried out via personnel restructuring, transfer of employees or termination of employment relationships.

Additional options to consider in workforce transformation projects are matrix reporting structures and remote work.

If an employer is planning to terminate a large number of employees to meet certain thresholds in the course of the workforce transformation project, then it must comply with the provisions of the "early warning system" (Frühwarnsystem). The "early warning system" stipulates that employers must notify (in writing) the regional office of the Austrian Employment Agency (AMS) overseeing the business location in advance of dissolving or terminating employment relationships.

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Following this advance notice to AMS, the employer must also wait for at least 30 days before issuing notices of termination. If employers do not comply with this system, the subsequent terminations are deemed null and void.

Furthermore, if the planned workforce transformation includes the termination of employees, employers should assess whether the respective employees might enjoy special protection from termination (e.g., members of the works council, employees on parental leave or parental part-time arrangements). Before proceeding with terminations for the affected employees, the employer should seek the cooperation of the works council and clearly state the timing for the planned transformation measures.

Information and consultation obligations

Depending on the selected workforce transformation methodology, different information and consultation obligations must be followed.

Prior to the termination of an employee, the employer must notify the works council, which has one week to provide comment on the matter.

The permanent reassignment of one or more employee(s) to another position must be reported to the works council without delay.

If the transfer to another position entails a reduction in remuneration or other working conditions, the approval of the works council is required for the transfer to be legally effective. If the works council does not provide its consent, the employer may seek a court order to validate the transfer. The court will consent in cases where the transfer can be "objectively justified".

If an employee demonstrably requests to consult with the works council prior to signing a mutually agreed termination agreement, the employer must allow two working days to lapse prior to concluding any agreement.

Therefore, for most workforce transformation processes, the works council must, at least, be informed. In certain circumstances, the works council's consent must be obtained prior to the termination.

If employers plan to implement a remote working environment, they must do so via written agreements with the concerned employees. It is also possible to conclude a work location-specific agreement with the works council regarding remote work.

As there are different options concerning matrix structures, the information and consultation rights of the works council must be reviewed for each case. However, when in doubt, it is strongly recommended

that employers inform the works council about planned workforce transformation projects, as this will ensure:

- That no laws are disregarded
- That the employer can develop a good working relationship with the works council during the project

If the works council does not exist, employees must, in any case, be informed about certain major changes to their work environment (e.g., in the case of a business transfer, change of the applicable collective bargaining agreement or any other aspects that form an integral part of the employment agreement).

Limiting the negative impact

The negative consequences of a change in operations can be mitigated by means of a "social plan". A social plan is a work location-specific agreement that defines measures to prevent, eliminate or mitigate the consequences of a change in operations. Organizations without a works council cannot implement a social plan; Likewise, a works council must take into account the economic situation of the company when commenting on social plans.

A change in operations implies the following:

- The restriction or shutdown of the entire establishment, or parts of it
- The termination of a number of employment relationships requiring notification under the early warning system (see above)
- The relocation of the entire establishment or parts of it
- The merger with other establishments
- Changes in the purpose of the business, its facilities, the organization of work and operations, or the organization of branches
- The introduction of new working methods
- The introduction of significant rationalization and automation measures into the organization's operations

If there is a change meeting the above criteria, the employer may wish to develop a social plan to limit the negative consequences for affected employees. Typical contents of social plans are payments:

- voluntary severance payments,
- compensation allowances,
- travel allowances or
- relocation allowances
- the continued use of company housing,
- the deferral of repayment of employer loans and re-employment promises in the event of changed circumstances

The works council must not waive the right to exercise its participation rights in connection with transfers or terminations. Furthermore, the agreed social plan must not interfere with remuneration claims based on individual or collective bargaining agreements (e.g., to compensate for the waiver of time off during the notice period or to agree on attendance bonuses).

Estimated timeline

As the timeline for a workforce transformation project depends on the kind of transformation, the size of the company and other factors. Employers should, in general, expect that the necessary processes take between three to six months.

Some projects, like a complete change of business focus, redeployment or other large-scale transformations may take several years to conclude.

Estimated costs

When agreeing a social plan, including a voluntary severance payment, the employers and the works council must settle on a specific calculation method. This calculation usually considers the age of the employees, their years of service with the company and the social aspects of the restructuring plan, such as employees' support obligations.

Employees who started working before 1 January 2003 might also be subject to the old severance scheme and therefore have a statutory entitlement to a statutory severance pay. Furthermore, certain collective bargaining agreements include severance pay entitlements.

The age of the employees, the type of workforce transformation, the size of the company, the entity and many other factors contribute to the variation in the costs of a workforce transformation project.

Azerbaijan

Planning a workforce transformation project

Under the labor code of the Republic of Azerbaijan, redundancy is considered one of the grounds for the termination of labor contracts by the employer.

When applying this ground, the employer should justify the reasons for such redundancy.

The labor code stipulates that a termination is considered to be a mass termination under the following conditions:

- If the total number of employees is 100 to 500, then the dismissal of more than 50% of them
- If the total number of employees is 500 to 1,000, then the dismissal of more than 40% of them
- If the total number of employees is more than 1,000, then the dismissal of more than 30% of them

"Mass termination" of labor contracts as a result of a change in the management of the employer is prohibited.

In addition, mass workforce reduction due to the failure to obtain attestation of the workplace (approval to operate under health and safety grounds) is forbidden by law.

Information and consultation obligations

The employer is obliged to notify the employees about potential redundancy in advance or pay compensation in lieu of such notification.

If the employee whose labor contract is being terminated due to redundancy is a member of a trade union, then the employer must follow statutory requirements prior to such termination. The employer should apply in writing to the trade union with accompanying documents justifying the redundancy and obtain prior consent from the trade union. The trade union should declare its decision no later than 10 business days upon receipt of such an application.

Limiting the negative impact

To mitigate the consequences of redundancy, the employee is entitled to at least one day off per week during work time to search for new job opportunities.

In addition, the employees who fall under the category of persons deprived of parental care must be provided with vocational training at the expense of the employer after redundancy. Employees engaged in active military service must be retained.

Employers should note that certain categories of employees have an advantage of being retained during redundancy. In the first stage, employees with a longer service have a preference on being retained.
In the second stage of consideration, if employees share the same level of service, then the following persons will prevail over others:

- The members of a martyr's family
- War veterans
- The spouse of serving soldiers and military officers
- Those who have two or more dependent children under 16 years of age

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- Persons with disabilities rising from an industrial accident or occupational disease in that workplace
- Persons with refugee status

The labor contracts of certain persons cannot be terminated (e.g., pregnant women, employees with children under the age of three or with disabled dependents, employees who have temporarily lost their ability to work, employees who are on vacation or business trip).

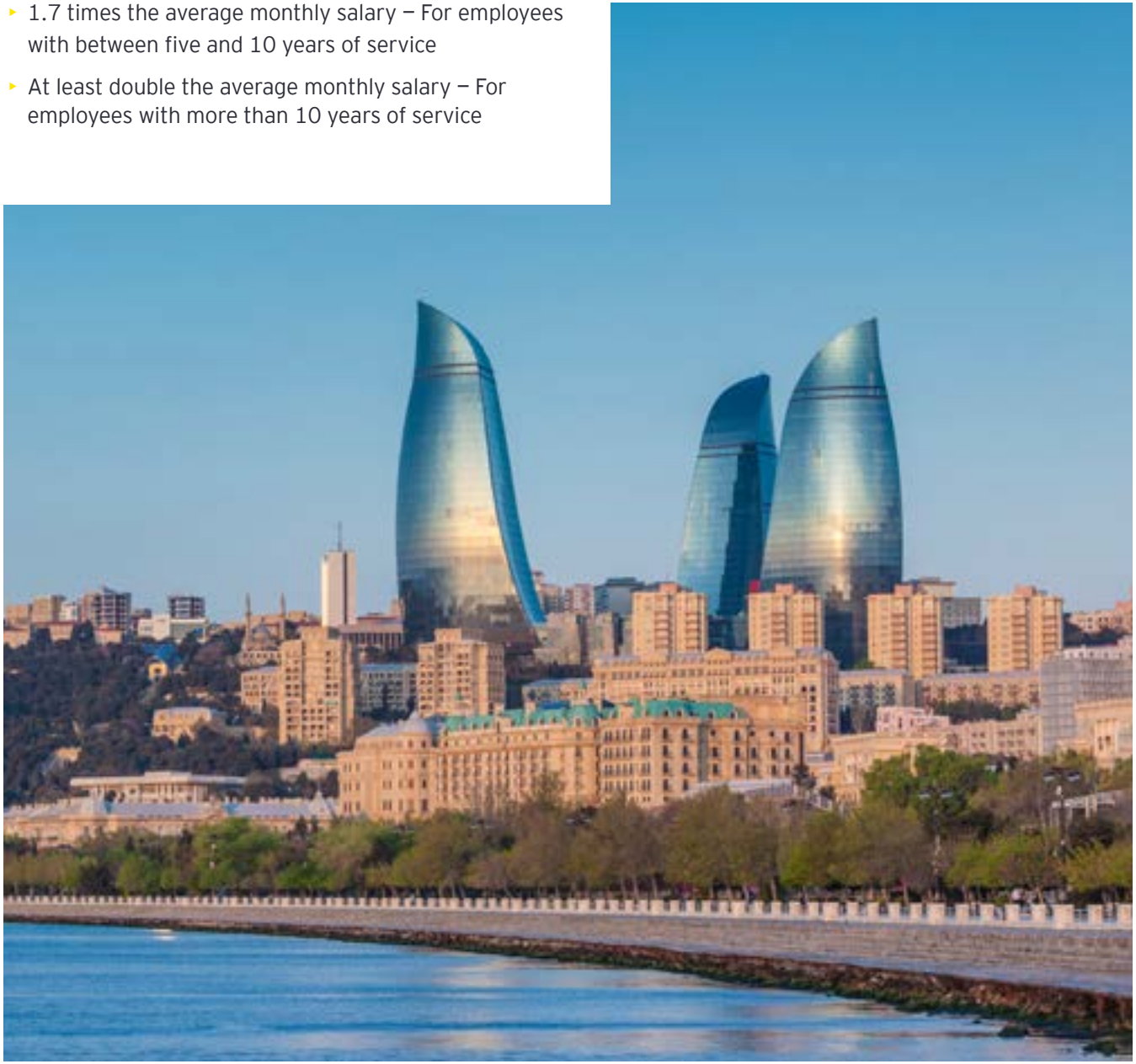
Estimated timeline

The labor code outlines the notice periods that should be followed prior to the termination of a labor agreement due to redundancy. The length of such notice periods differ between two and nine weeks, depending on the work experience of the employee. Alternatively, with the consent of the employee, such notice periods can be curtailed with the payment of compensation.

Estimated costs

Regarding redundancy, there are certain statutory severance payments to be made to the employee by the employer. The amount of such severance payments depends on the length of service of the employee and is calculated as follows:

- Average monthly salary – For employees with service of less than a year
- 1.4 times the average monthly salary – For employees with between one and five years of service
- 1.7 times the average monthly salary – For employees with between five and 10 years of service
- At least double the average monthly salary – For employees with more than 10 years of service



Belgium

Planning a workforce transformation project

Detailed advance planning is required to ensure compliance with the complexity of the Belgian labor law in the context of transformation projects. The Belgian labor regulations at the national and industry levels provide for several obligations and formalities that the employer must fulfill (e.g.,notifications to the authorities, provision of information and meeting consultation obligations regarding the intention to proceed with a workforce transformation project).

Information and consultation obligations

Depending on the type of workforce transformation project (e.g., transfer of undertaking, business closure, collective dismissal etc.), Belgian labor regulations provide for prior information or consultation procedures with the employees' representative bodies (i.e., works council, trade union delegation or committee for prevention and protection at work) or directly with the affected individual employees.

In the event of a transfer of undertaking (i.e., the contractual transfer of an economic entity that maintains its identity), where it intends to continue an economic activity, prior information and consultation obligations (if applicable) must be respected.

Where a business closure or collective dismissal concerns an entity (or a division thereof) employing less than 20 staff, and the closure or collective dismissals are to take place during a specific timeframe, the regulations on prior information and consultation obligations will not apply.

The regulations on prior information and consultation obligations continue to apply if an entity (or a division thereof) employs 20 or more and a business transformation is planned to take place during a specified timeframe. The regulations on prior information and consultation obligations apply in the following circumstances:

- The workforce transformation project will qualify as a "business closure" if:
  - The employer's main activity has ceased or will be ceasing.
  - The number of employees is to be reduced below 25% of the average number of employees who were employed in the company during the four quarters preceding the quarter in which the definitive cessation of the main activity took place.
- For the workforce transformation project to qualify as a "collective dismissal", the following conditions must be met:
  - The dismissals are for one or more reasons not inherently linked to the employee's performance
  - The dismissals affect, during a period of 60 calendar days:
    - At least 10 employees for organizations (or a division thereof) employing 20 to 100 employees during the calendar year preceding the dismissals
    - 10% of the personnel for organizations (or a division thereof) employing 100 to 300 employees during the calendar year preceding the dismissals

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- 30 employees for organizations (or a division thereof) employing more than 300 employees during the calendar year preceding the dismissals

If applicable, the statutory information and consultation obligations will need to be fulfilled before a decision is made regarding the workforce transformation project.

The employer is obligated to provide accurate and complete information regarding the envisaged workforce transformation project to the employee or the employees' representatives during the information phase. The purpose of the consultation phase is to permit the employees or their representatives to prepare and present counter-proposals to the planned redundancies. This helps in avoiding or reducing a collective dismissal and mitigates the consequences of the accompanying social measures.

It is important to note that the employees' representative bodies or individual employees in Belgium do not have decision-making powers or veto rights regarding workforce transformation projects.

Non-compliance with these obligations can result in social turmoil and attract criminal sanctions under the Belgian social criminal code.

Limiting the negative impact

In principle, there is no legal obligation to negotiate a social plan except for specific situations, such as the reduction by age in the number of employee(s) to be dismissed. This would ensure the dismissed employees could benefit from the state unemployment regime, with a supplementary company allowance.

However, in a workforce transformation project, it is a common practice to negotiate a social plan with the employees' representative bodies or directly with the affected employees to limit the negative impact, for example, by offering comprehensive outplacement services.

Furthermore, a company that carries out a collective dismissal must establish an "employment cell" for all dismissed employees to guide them in their search for a new job.

Estimated timeline

A workforce transformation project needs to be carefully planned. The types of phases one may expect are as follows:

- Defining the type of workforce transformation project
- Obtaining a view on the total cost of the project
- Preparing the communication plan for the employees' representative bodies, the employees and the authorities
- Establishing the timeline of the project (including a 30-day cooling-off period starting from the moment the final decision regarding the collective dismissal is notified to the authorities)

Regarding the prior information and consultation obligations, Belgian labor law does not determine a minimum or maximum number of meetings to be convened. Depending on the circumstances and the complexity of the case at hand, it may take several meetings organized on a regular basis, to answer all the possible questions from the employees' representative bodies or the employees themselves (where there is no employee representative body).

According to the most recent statistics from the Belgian government, the information and consultation procedure or collective dismissals takes up to 107 days on average.

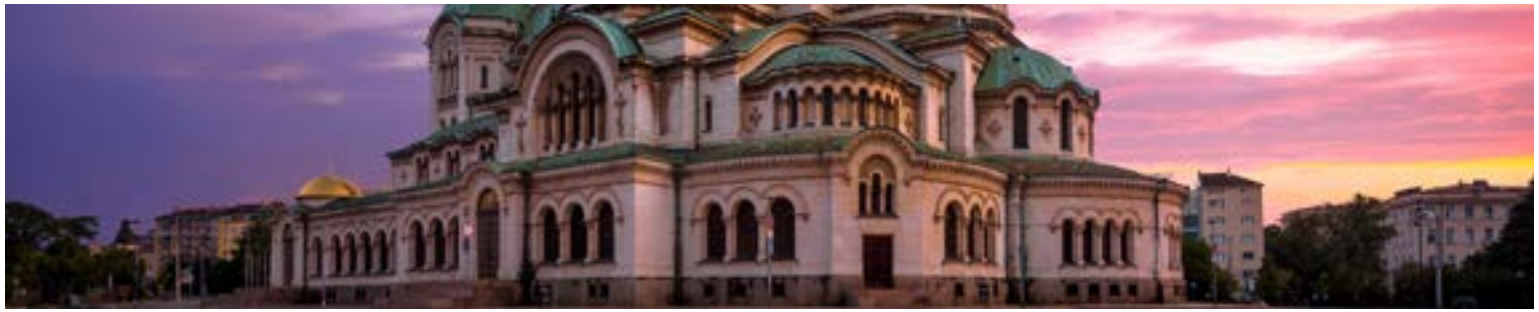
Estimated costs

The total cost of a workforce transformation project differs from company to company.

The following elements should be considered when determining the total cost:

- "Statutory termination indemnity" for individual dismissals (to which the employee is entitled)
- A portion of the statutory termination indemnity is paid as "Reclassification collective dismissals
- Departure holiday pay, end-of-year bonus, any other statutory salary elements (prorated) at the end of the employment contract (if applicable)
- Collective dismissal indemnity or closure indemnity (if applicable)
- Additional, in-kind benefits negotiated in the context of a social plan (if applicable)
- Outplacement cost (if applicable)
- Supplementary allowance to "older" employees, including an ongoing allowance from the company in the event of continuing unemployment (if applicable)
- Administrative costs of the procedure (including legal advice)

Bulgaria



Planning a workforce transformation project

Workforce transformation may be necessary due to a variety of economic or strategic reasons. Bulgarian law sets out specific rules that shall be observed when workforce transformation includes the termination of employees.

Information and consultation obligations

Under Bulgarian law, information and consultation requirements are obligatory in all cases of collective redundancies and in some cases of business transfer.

The collective redundancy process includes consultations with the trade unions and the employees' representatives. The employer shall provide the employees (or their representatives) with written information before starting the information and consultation process, which shall cover the following:

- Confirmation of the collective redundancy period during which the collective redundancy process is scheduled to be completed
- Information about the total number of employees
- Confirmation of the number of affected employees
- Compensation arrangements for the employees facing termination

This information should also be sent to the official employment agency within three days after being provided to the employees.

The aim of the consultation is for the employer and the employees to reach an agreement and to limit the negative impact of the redundancy process. However, there is no obligation for the employer to reach an agreement with the employees. Employees do not, therefore, have veto rights in respect of the redundancy process.

Information and consultations are required in certain types of business transfer, including:

- Mergers
- Transfer of part of an enterprise to another owner
- Certain transfers of material assets

In these cases, the parties shall make sure that the affected employees are informed of the anticipated transaction no less than two months prior to when it is scheduled to take place.

Further, the employer should consult with the employees within two weeks after providing them with the required information.

Limiting the negative impact

The aim of the information and consultation procedures regarding collective dismissals is to mitigate or avoid their negative impact on the employees.

Employers shall also consider that some employees are protected from unilateral dismissal. Such employees may only be dismissed after compliance with the appropriate legal steps.

In cases of planned terminations, which do not cover all the employees performing the same job or role, the employer is not always free to choose which employees are to be terminated. A selection procedure shall be conducted based on certain objective criteria to justify the employees to be dismissed.

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Estimated timeline

The minimum time frame for the termination procedure is 45 days after the information is provided to the trade unions and the employees' representatives, but not earlier than 30 days after informing the official employment agency.

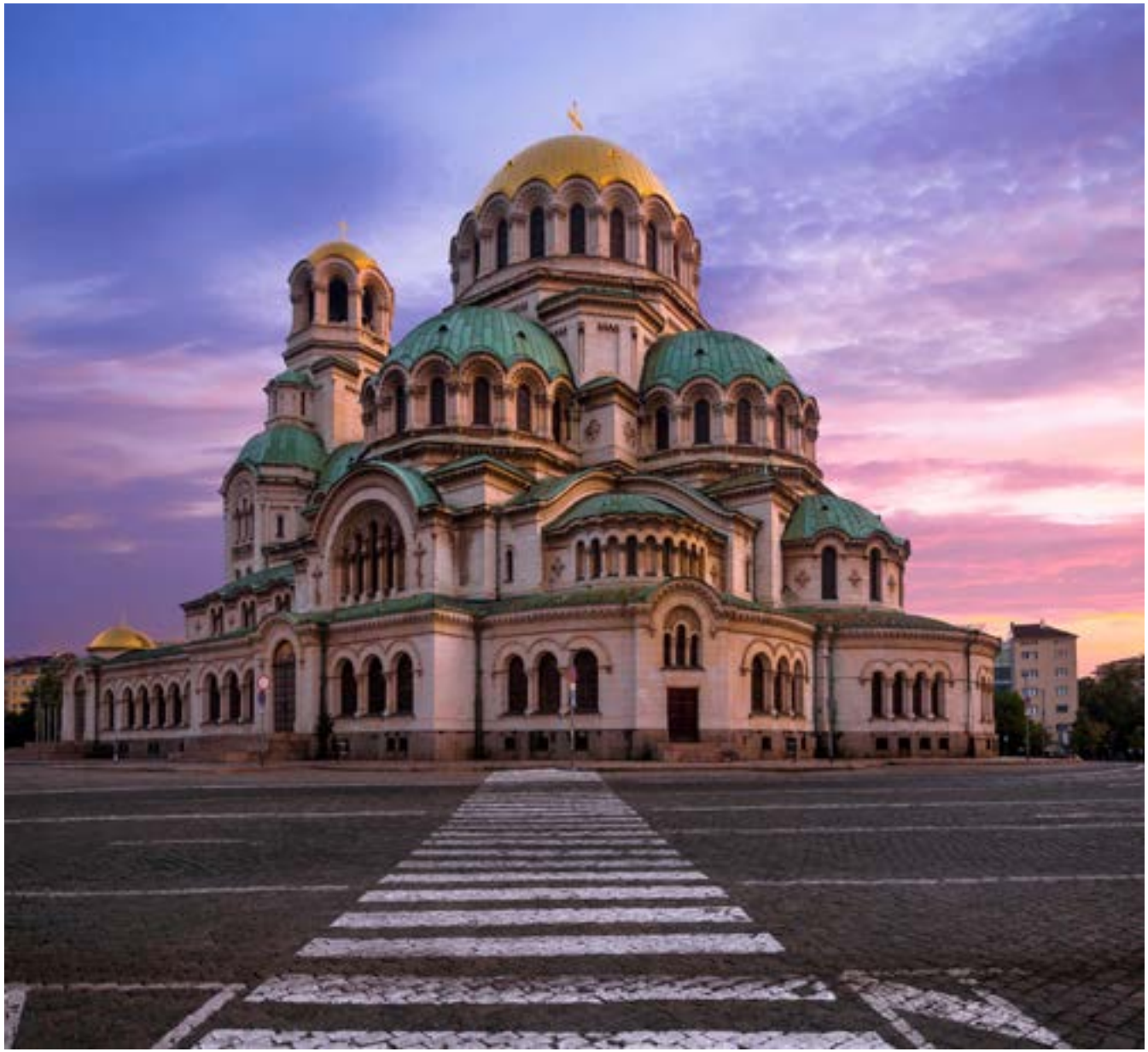
Estimated costs

The estimated costs of termination are calculated after considering the following minimum compensation due by law:

- Compensation for breach of the notice period (if any)
- Compensation for any unused annual paid leave
- Compensation for redundancy, for a period of up to one month
- Special compensation for employees who are entitled to retire

Fines

Employers should also consider the fines due for breach of the information and consultation procedures. The penalty amount ranges from BGN1,500 to BGN15,000. However, the enforcement of such financial penalties is not routine and therefore the employers should primarily assess their reputational risk when assessing any failure to comply with the relevant obligations.



Colombia

Planning a workplace transformation project

Employers must be aware that during 2023, the national government is expected to enact further legislative reform with the objective of protecting the workforce transformation. The proposed reforms to the Colombian labor law will determine the following specific issues:

- The provision of services by third parties
- Dismissal modalities
- Creation of special protection for employees
- Creating new unions and entering collective bargaining agreements
- Other relevant topics that will determine the labor regulations for the coming years

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Organizations should monitor and react in line with the proposed labor reforms while remaining compliant with current legislation regarding personnel transfers and limitations on employer actions.

Information and consultation obligations on workforce transformations

The requirements to consult will depend on the type of transformation within the business. For example, each of the below commercial actions has differing obligations:

- Spin-off of a company or business unit
- Merger
- Organization and creation of an entrepreneurial group or unit
- Asset purchase
- Termination and liquidation of a business

In general terms, the Ministry of Labor monitors the protection of labor rights, along with the superintendency of companies. This ensures that the organizations are in compliance with, and will make the necessary payments under their labor law obligations. In every type of transformation, the company can retain their employees and transfer them to a new entity via employment substitution or the assignment of labor agreements. In these cases, the employee rights and labor conditions must remain the same. Both employment substitution and assignment will not require additional authorization from any government agency. The rights accrue to the employer if labor rights are not affected.

Termination of labor agreements

If the termination of a labor agreement is mandatory due to the liquidation of the company, the Ministry of Labor must grant a special permit for this purpose. Companies must follow the current statutory process, which includes:

- Verifying the existence of the employees with any special health condition, medical leave entitlements or disabilities
- Reviewing the number of employees who have had their labor agreement terminated, without just cause, in the preceding six months
- If the number exceeds the average determined by law, the company must request authorization to enter into a collective dismissal process

Regardless of the above, organizations can terminate labor agreements by mutual consent, in which the employer and the employees enter into a settlement agreement. The employer must recognize a transactional bonus that, in most cases, is equivalent to the indemnification granted when the agreement is terminated without just cause. The company can also recognize retirement funds when the termination is large in scale. Finally, if the employer has fixed-term agreements, it is highly advisable to terminate them during the agreement period, notifying the employee at least 30 days prior to the end of the agreement that it will not be renewed.

Limiting the negative impact

Once the employer has chosen its preferred approach to workforce transformation, a consultation with the employees must be undertaken in which they are made aware that potential changes will be forthcoming. If trade unions have been established, the companies should engage in political communication with them to avoid later claims.

Terminations by mutual consent should be negotiated with the employee due to the need for acceptance by the employee following the voluntary process of mutual negotiation. The employer must avoid any negative suggestion that they in any way persuaded the employees to resign. If the employee later proves any kind of employer persuasion, a reinstatement action may be granted.

Social plans are not mandatory; However, it is critical that the employers obtain the correct advice and verify the labor and payroll costs for the employees who will be part of the transformation, regardless of the selected mode of transformation by the company. Where the decision has been made to transfer employees, an understanding of current benefits and the economic impact (in financial statements) will inform future decisions about restructuring and creating strategic compensation as well as talent management.

Estimated timeline

Depending on the transformation type that is chosen, there is no fixed timeline.

However, it is advisable to start the review process at least two months prior to any transformation. For collective dismissal processes or liquidation, the Ministry of Labor may take between two and three to decide. If the transformation request also needs to be analyzed by the superintendency of companies, the complete process can take up to four or five months.

Estimated costs

Companies must be aware of the recognition of indemnities, labor obligations and the total amount of the severance payment at the time of termination of the labor agreement. In addition, the existence of special benefits like "golden parachute" payments must be verified, and bonuses linked to seniority must be recognized at the termination or taken up by the "newco" in any substitution or cession.

Costa Rica

Planning a workforce transformation project

The working world is changing, and organizations are adapting to these changes. Analyzing a potential workforce transformation project is key to ensuring that an organization is ready to face the current market needs.

Any workforce transformation project must be carefully planned and strategically executed. Its starting point should be the organization's most valuable asset — its employees.

The first step is to evaluate the organization's current strengths, identify any skill gap (weaknesses) and determine what's required to meet the organization's future goals. It is critical for employers to be able to call upon accurate workforce data (e.g., demographics, seniority and applicable compensation package).

The execution of an action plan

Once the organization has identified its critical needs and the goals to be fulfilled, the next step is to establish an action plan. For example, if the organization is looking to conduct a digital transformation, it should evaluate the tools or programs required to position itself in the market, as well as:

- Identify current employees' strengths and weaknesses in these matters.
- Identify any potential duplication of roles.
- Identify the individuals that are currently taking on a higher workload than they should.
- Identify top performers and quantify their contribution to the organization, etc.

As part of this analysis, it is important to identify key personnel that do not have the proper skill set for the future state. This could spur the organization to create a plan for internal skills development, especially those employees who have been identified as critical personnel.

Currently, organizations are opting to reskill and upskill existing staff rather than immediately hiring new employees to fill gaps. This lowers employee turnover and avoids the training or onboarding support that new hires require. Organizations may choose to implement the following strategies:

- Sponsor internal and/or external training programs
- Providing mentorship opportunities
- Temporary assignments in different departments
- Sponsoring employees who wish to take up traditional degree programs

Organizations are realizing that it is not always possible to hire the entire workforce they need because there are not always enough recruits, and this is a costly strategy. Internal transfers and progression must therefore be considered.

For the transformation project to be sustainable over the long term, a good development plan setting out the skills to be improved is mandatory. Employees need to feel their employer cares about their development, which promotes commitment to the company's vision for the future.

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Consultation obligations

Although membership is relatively low in Costa Rica, consultation should also include workers' organizations, typically a trade union. The main purpose of the trade union is to represent the collective interests of its members, which is usually enshrined in a collective bargaining agreement. If the employer is able to obtain trade union consent for the transformation project, this would enhance the commitment of the employees to the project.

If there is an association of employees known as an Asociación Solidarista, the employer should also consider how the association may be affected by the transformation. This includes consequences such as the availability of funds the association requires to pay employees their savings (and any added employer contribution). The association would prefer early confirmation of the exact number of affiliated employees that might be laid off or transferred to another entity.

Estimated timeline

There is no specific timeline as the workforce transformation process may entail several phases, including:

- Dismissals
- Termination by mutual agreement
- Separation of entities
- Mergers
- Rehiring under new conditions

In addition, the number of employees within an organization and the characteristics of their role will also affect the timeline.

If there are steps that require consultation or a need to submit an official request, the time taken for the authorities to respond should also be taken into consideration. For example, if a new entity has been established and is being registered as an employer, the registration process may take up to one and a half months.

Estimating costs and limiting the negative impact

Costs depend on the action plan that the company has agreed upon. Some plans include training programs, dismissals, rehiring or restructuring of the compensation schemes. Each of these will have different estimated costs.

To limit the negative impact of terminations, it is important to consider that in Costa Rica, it is possible to freely dismiss employees without cause. This possibility entails the payment of not only the inalienable rights (rights to which the employees are entitled (e.g., Christmas bonus and pending annual leave), but also an indemnity consisting of payment in lieu of notice and any severance payment due. Any other unpaid wages (e.g., overtime, commissions, bonuses and salary in kind) should also be settled.

In Costa Rica, there is no unemployment pay (unless the individual has procured a personal plan). Therefore, the indemnities paid for the termination without cause serve as an alternative to such payments.

In conclusion, to get into the competitive market and attract and retain the best talent, organizations must be aware that transformation, adaptation and innovation are the keys to success. Any innovation an organization introduces to create flexible workspaces will likely generate real business value.

Croatia

Planning a workforce transformation project

To avoid legal risks while planning and implementing workforce transformation, employers should be aware of applicable employment law requirements. This will depend on the type of workforce transformation (e.g., collective dismissal, transfer of contracts to a new employer, the introduction of new technologies and change of organization and methods of work).

Information and consultation obligations

According to Croatian labor law, when due to economic, technological or organizational reasons, an employer intends to cancel at least 20 labor contracts within a period of 90 days – of which at least five employment contracts are being terminated due to business reasons – it is obliged to consult with the works council. Such consultation must be undertaken in a timely manner and according to the process as prescribed by law, with the aim of reaching an agreement to avoid redundancies or reduce the number of workers affected.

It should be noted that certain categories of employees are afforded special protection, where a decision-making process jointly with the works council is required before terminating these employees' agreements.

The employer is obliged to provide the works council with all relevant information (in writing) and notify it of the following:

- Reasons for redundancy
- Total number of employees usually employed
- Number and categories of workers to be made redundant
- Criteria for selecting employees to be made redundant
- Amount and method for calculating any redundancy payments and other payments to the employees
- Measures designed to prevent and alleviate redundancy consequences for employees

As prescribed, the next step for the employer is to notify the competent public employment authority about consultations with the works council. Following the employer's notification, the works council can send any comments and suggestions it may have to the competent public employment authority as well as to the employer.

No explicit approval from the public employment authority is needed for implementing a collective redundancy. However, collective redundancies notified to the competent public employment authority cannot take effect earlier than 30 days from the date of notifying the authority. The competent public employment authority may, no later than the last day of this deadline, instruct the employer to postpone the termination of the employment contracts for all employees in scope or for certain individual workers. The authority's postponement order may remain in place for a maximum of 30 days, if during this extended period the employer can ensure the continuity of the employment relationship.

According to the law, failing to consult with the works council in a manner stipulated by the labor act about the appropriate issues or adopting a decision without works council agreement where the adoption of such

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a decision is subject to works council agreement, constitutes a serious offense by an employer.

Limiting the negative impact

During the process of consultation with the works council, the employer is obliged to consider and explain all possibilities and proposals that could lead to avoidance of terminations.

Estimated timeline

Preparation of any specific documentation required for the collective dismissal process depends on the complexity of the project. Statutory timelines mentioned above should be taken into consideration.

Estimated costs

In general, the following costs should be considered:

- Severance payments
- Compensation for unused leave
- Potential legal costs during the redundancy process
- Potential litigation costs

Cyprus

Planning a workforce transformation project

Workforce transformation is normally triggered by both internal and external factors, and it may take the form of internal restructuring or downsizing. To have a successful workforce transformation, it is important that legal and operational workstreams work together.

Depending on the chosen type of transformation, according to Cyprus law, employers must comply with certain obligations, and specific procedures to follow.

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In the event of downsizing, different legislative are triggered depending on the volume of redundancies. According to the Collective Redundancies Law No. 28(I)/2001, redundancies are considered "collective" where the number of redundancies take place within 30 days and fulfil one of the below criteria:

- At least 10 employees to be made redundant for organizations that usually employ more than 20 but fewer than 100 employees (i.e., 21 to 99 employees).
- At least 10% of the employees to be made redundant for organizations that usually employ at least 100 but fewer than 300 employees (i.e., 100 to 299 employees).
- At least 30 employees to be made redundant for organizations that usually employ 300 or more.

If the number of employees is 20 or fewer, the Termination of Employment Law of 1967 will apply.

In the event of a scenario regarding Transfer of Undertakings Protection of Employment (TUPE), the applicable legislation is the Safeguarding of Employees' Rights in the Event of Transfers of Undertakings, Businesses or Parts of Undertakings or Businesses Law of 2000.

Information and consultation obligations

Collective redundancies

The employer is obliged to consult with the employees' representatives in a timely manner to reach an agreement. The consultations must, at a minimum, cover potential options to avoid collective redundancies or reduce the number of the affected employees and mitigate the consequences of collective redundancies by resorting to social measures, such as the re-employment or retraining of the affected employees. During consultations, the employer is obliged to provide the employees with all relevant and useful information and provide the following specific data in writing to them:

- The reasons for the planned redundancies
- The number and categories of affected employees
- The total number and categories of the usual employees
- The period during which terminations are planned to take place

- The criteria the employer intends to use to select the employees to be terminated, and which are defined as the employer's responsibility under the law or practice
- The calculation method of any potential payment regarding the terminations

Regarding collective redundancies, the employer must notify the competent authorities as soon as possible and the redundancies must not take effect within 30 days of such notification.

TUPE

Both the transferor and the transferee shall inform the employees or their representatives prior to the transfer being affected. In any case, the transferee shall give the following information to the effected employees, before the employees are directly affected by the transfer, in relation to working conditions:

- The proposed date of transfer
- The reasons for the transfer
- The legal, financial and social implications of the transfer with respect to the employees
- The anticipated measures to be taken in relation to the employees

Limiting the negative impact

The legal obligation imposed on employers is to conduct consultations. However, there is no obligation in Cyprus to conclude or agree upon a social plan. Where dismissals are made due to redundancy (as defined by the labor law), the employer is not allowed to hire another worker in the same position for a period of eight months from the date of the dismissal notice given to the previous employee. Should the need for employment for the same work arise within eight months from the dismissal notice, the employer is obliged to first offer an employment contract to the respective dismissed employee(s).

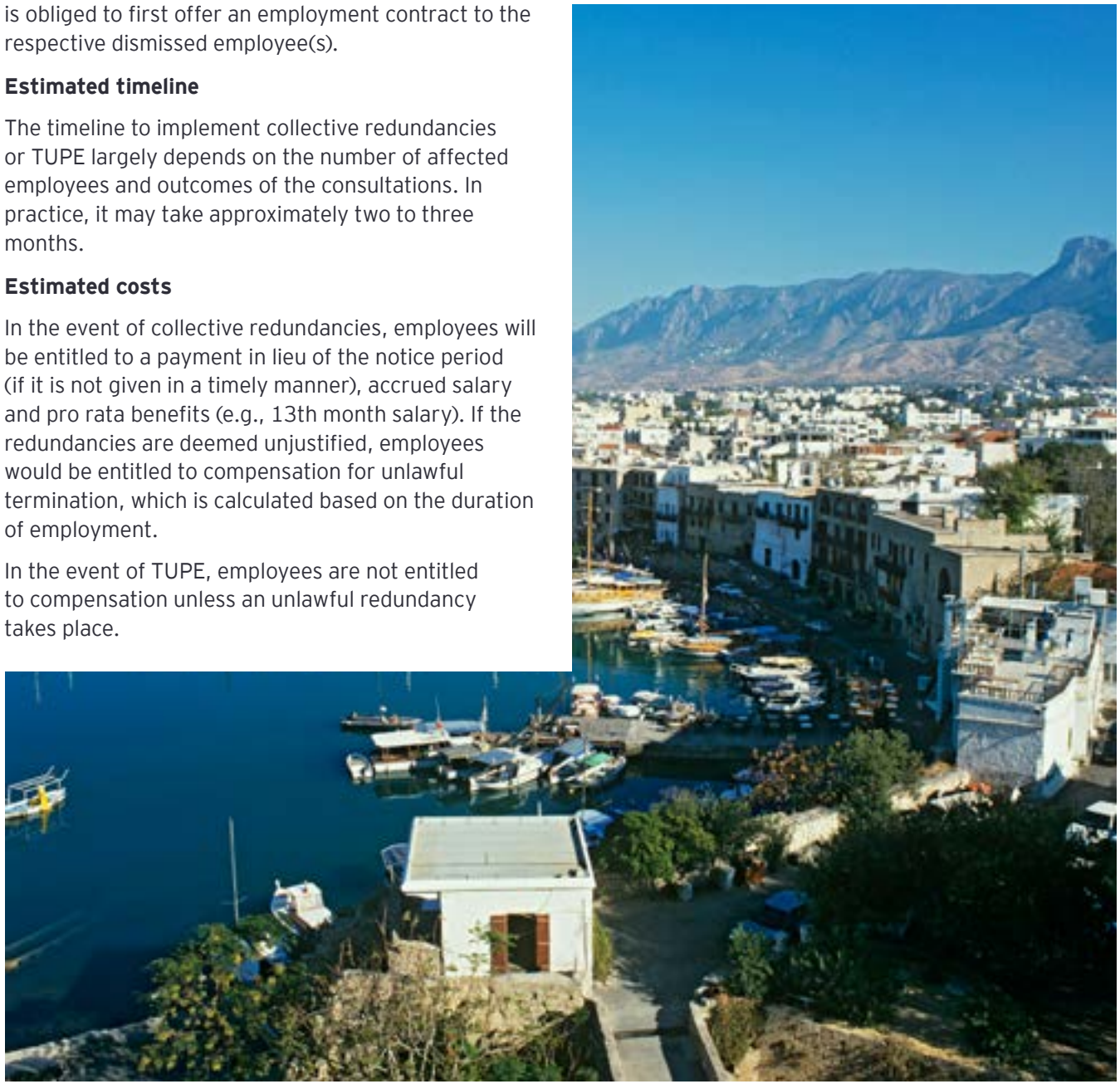
Estimated timeline

The timeline to implement collective redundancies or TUPE largely depends on the number of affected employees and outcomes of the consultations. In practice, it may take approximately two to three months.

Estimated costs

In the event of collective redundancies, employees will be entitled to a payment in lieu of the notice period (if it is not given in a timely manner), accrued salary and pro rata benefits (e.g., 13th month salary). If the redundancies are deemed unjustified, employees would be entitled to compensation for unlawful termination, which is calculated based on the duration of employment.

In the event of TUPE, employees are not entitled to compensation unless an unlawful redundancy takes place.



Czech Republic

Planning a workforce transformation project

In view of the current economic situation, employers are facing a difficult situation, forcing them to transform their workforce structure. However, workforce transformation projects should be carefully planned in compliance with the Czech labor law to avoid potential litigation from employees and other negative impacts.

First, the employer shall consider the overall employees' structure and its possible options to reduce headcount. The options usually include:

- Reduction of agency workers
- Non-prolongation of fixed-term employments
- Dismissal of employees still in their probationary period
- Conclusion of mutual termination agreements between the employer and the employee
- If appropriate, unilateral termination of employment by the employer, due to organizational reasons specified in the Czech labor code (i.e., shutdown or relocation of the employer's entire business or certain departments, or an employee's redundancy)

If a certain number of employees are to be unilaterally dismissed by the employer due to organizational reasons, within a period of 30 days, additional rules for collective redundancies apply. The thresholds are the following:

- 10 or more employees facing potential dismissal when the total number of employees is between 20 and 100
- 10% of employees facing dismissal when the organization employs between 101 and 300 workers
- 30 or more employees facing dismissal when the employer has greater than 300 employees
- The threshold is also met if at least five employees are served notice due to organizational reasons and the remaining employees sign termination agreements on the same grounds

Information and consultation obligations

The employer is obliged to consult the trade union (if established) prior to dismissal of each employee.

In the case of collective redundancy, the employer is obliged to inform the employee representatives of its intention and start the consultation process no later than 30 days before giving notices to individual employees. If there are no employee representatives, the affected employees must be individually informed.

Simultaneously, the employer is obliged to inform the competent regional branch of the Czech government's labor office about the planned collective redundancies.

Once the consultation process is concluded, the employer is obliged to deliver to the labor office a written report, including the results of the process.

Employment of the affected employees may be terminated no earlier than 30 days after delivering the second written report to the labor office, and upon expiration of the notice period.

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Limiting the negative impact

For a collective redundancy, the employer is obliged to consult with employee representatives on any measures leading to avoiding or limiting the collective redundancy, moderating its unfavorable impact on employees and the possibility of assigning affected employees to other, suitable working positions within the employer's organization.

Estimated timeline

The termination process, especially for a collective redundancy, takes approximately three to four months to complete, including the consultancy process as well as notice periods. However, the process may be shorter or longer depending on the particular employer's situation.

Estimated costs

The employees whose employment is being terminated due to organizational reasons (whether based on mutual agreements or unilateral dismissals by the employer) are entitled to a statutory severance payment. The amount is calculated based on the one to three monthly average earnings of the employee, depending on their seniority.

An additional severance payment is usually offered to employees (for example, in exchange for agreement on a shorter notice period).

Denmark

Planning a workforce transformation project

The business and economic landscape is ever-changing and for organizations to keep up with the constant change in business strategies, it is essential for them to ensure the right workforce is in place at all times with the right skills, experience and abilities.

Many Danish organizations are facing severe pressure due to the challenging global economic situation. As a result, many organizations have already performed, or are contemplating, terminations and/or layoffs.

Large-scale redundancies require careful planning and thought. Redundancies can involves high costs for organizations if they don't strictly comply with all applicable laws and regulations relating to large organizational restructures and redundancies.

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Information and consultation obligations

Should the employer plan the dismissal of many employees, the rules in the Danish Act on Collective Redundancies must be observed and adhered to. The regulation are applicable if the restructuring plan is expected to involve redundancies, including the following within a 30-day period:

- 10 or more redundancies in organizations between 21 and 99 employees
- 10% or more of the employees facing redundancy in organizations with between 100 and 299 employees
- 30 or more redundancies in organizations with more than 300 employees

The crucial factor regarding the 30-day period relates to when organizations give the employees notice of the redundancies – not the point in time when the affected employees receive their confirmed date of termination. Regardless of when any redundancies are made during the 30-day period, all redundancies should be included when totaling the final number of redundancies within the period. Consequently, organizations must always have full awareness of the actual number of the redundancies to be made during organizational changes and restructuring.

If the rules and regulations regarding large-scale redundancies apply, organizations must comply with the above legal requirements. This includes the employer's right and duty to inform, consult and negotiate with the employees and the employees' representative unions prior to the proposed redundancies are initiated in accordance with the Danish Act on Collective Redundancies. For the redundancy processes, employers must additionally fulfill the legal requirements regarding the regional labor market councils. There are eight labor market councils in Denmark.

The Danish Act on Collective Redundancies stipulates that employees who are to be made redundant can instead choose to resign after the local labor market councils have received written information about the redundancy.

Limiting the negative impact

Organizations must carefully set fair and objective criteria when determining which employees to make redundant. Some employees enjoy special protection against redundancy. In such cases, organizations may be required to pay redundant employees up to 12 months' salary.

It is unlawful to base the redundancy criteria on an employees' religion, age, gender, disability or the employees' maternity, paternity, parental and adoption leave, etc. In such cases, the burden of proof is elevated to a higher standard, which can be difficult to prove.

Termination of trade union representatives may be justified if there are compelling reasons. Similarly, employee-elected board members, safety representatives and members of the cooperation committee are specifically protected against dismissal.

If the company is bound by a Collective Bargaining Agreement within the area DA-/FH, a special rule applies: (the "25-year rule"). This rule stipulates that if an employee with a minimum 25 years of service is being made redundant, the employer needs to be able to prove that the redundancy is due to workforce reduction. Furthermore, the employer must be able to prove that there are crucial considerations that make the dismissal of the employee necessary, rather than dismissing another employee. In a recent case, a company was sentenced to pay compensation equivalent to seven months' salary to an employee with 29 years of service who was being made redundant.

Estimated timeline

The estimated timeline regarding large-scale redundancies will vary as it depends on several factors. Information and consultation with the works council or employee representatives needs to take place the potential collective redundancy. The employer cannot unilaterally decide to implement a collective redundancy before the information and consultation process has concluded.

There are no mandatory rules on the specific timeline to be followed for the information and consultation process with the works council or employee representatives. However, the employer is required to follow a specific timeline for implementing the contemplated collective redundancy following notification to the local labor board.

Estimated costs

The cost estimation regarding a collective dismissal is complex due to varying factors, such as the number of affected number of employees and other specific circumstances relating to the individual employees' situations. The key components of mandatory HR legal costs are as follows: normal agreed remuneration and benefits throughout the agreed notice period and possible service-related severance payments according to the employee's seniority (typically between one and three months' remuneration).

Furthermore, employers in Denmark often provide for a large range of measures to limit the negative impact of the redundancies, including outplacement, which is one of the main customary additional HR costs to the employer.

Fines

The consequence of not complying with the rules described above is that the organization may receive a fine and be required to pay compensation to the employees who have been made redundant in breach of the law. Furthermore, the rules regarding notice can be incorporated in a Collective Bargaining Agreement which the employer is bound by, which similarly results in the company receiving a fine for a breach.

If the employer fails to initiate negotiations with employees or fails to notify the labor market council, the employer must pay compensation equal to the individual employee's salary for 30 days from the time of termination. Furthermore, if an organization has more than 100 employees and at least half of these are dismissed, the employer must pay a compensation equivalent to eight weeks' salary to each employee if negotiations with the employees are not initiated, or if the labor market council is not notified according to law.

Estonia

Planning a workforce transformation project

The Estonian Employment Contracts Act (ECA) regulates the relationship between employer and employees and relevant to consider when planning a workforce transformation. Transforming the workforce can entail different modifications, commencing with changes to internal operational structures. However, it is more likely considered to be an increase or decrease in the number of employees (in practice lay-offs), as well as the transfer of employees from one entity to another (e.g., during a restructuring, acquisition or transfer of enterprise).

While considering a workforce transformation, it is important to reserve enough time for planning and communication with employees ahead of the transformation to meet the ECA criteria regarding pre-notification and consultation.

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An employer may extraordinarily cancel an employment contract entered for a specified or unspecified term with good reason arising from the employee's conduct or the economic situation (e.g., decrease in work volume, reorganization of work or company bankruptcy). The declaration of cancelation shall be submitted in a format that can be reproduced in writing (e.g., email or message) or in writing (signed with an e-signature or by hand).

An employer shall always provide justification for a cancellation. In addition, the correct justification of termination of an employment contract cannot be conditional, as this would be vague for the employee and consequently deemed to be harmful.

An employment contract can only be prospectively terminated, and a declaration of cancelation only becomes valid when the employee has received it.

Information and consultation obligations

When canceling an employment contract, applicable advance notice periods vary from 15 to 90 calendar days depending on the employee's length of service. In the case of non-observance of the notice period, the employer is obligated to pay compensation in the amount of the average daily wage of the employee for each working day that fell short of the required term of advance notice.

Upon the cancelation of employment contracts of more than five employees within a period of 30 calendar days, the employer must determine whether fulfils the definition of "collective redundancy". This requires additional detailed procedures, such as consulting with the employees trustees in adequate time or, if there is no trustee of employees in place, consulting with the employees directly and submitting the appropriate information to the Estonian Unemployment Insurance Fund.

Limiting the negative impact

If the employer decides to lay off the employee(s), the following aspects are important:

- Offering an alternative work position to the employee, where possible
- Identifying employees with preferential employment rights (e.g., trustee of employees and employees raising a child younger than three years of age)
- Considering the principle of equal treatment
- Complying with the notice periods and the cancelation declaration form
- Paying the final balance on the last day of the employment relationship

Where the transformation is the enterprise or part of it, the employment contracts remain valid and are transferred unamended if the same or similar economic activities are continued. The employees shall transfer to the new employer with their working history (including unused holiday balance, etc.).

Estimated timeline

The timeline depends on the notice periods mentioned above. Collective cancelation of employment contracts enters into force upon the expiry of the period of required advance notice for such cancelation, in any case not earlier than 30 calendar days from the time the Estonian Unemployment Insurance Fund had received the relevant information from the employer. Note, however, the term may be extended up to 60 calendar days.

Where the transformation is a full transfer of enterprise, the employees shall be notified at least one month in advance.

Estimated costs

The workforce reduction is related to the organization's internal changes and the coordination of this process is solely within the competence of each individual employer. Retraining costs depend on what kind of training is required to prepare the employee for the new position they have been offered.

Upon the expiry of their employment contract, the employer is required to financially compensate the employee for:

- Earned wages
- Unused annual leave that has not expired
- For a lay-off, the compensation to the extent of one month's average wages of the employee

Finland

Planning a workforce transformation project

The Finnish Co-operation Act regulates the relationships between employers and employees. The Act applies to organizations regularly employing at least 20 employees. It sets out the information and consultation requirements to employers, ensuring they take the workforce perspective into account in their strategic decision-making.

Employee redundancies are furthermore governed by the Finnish Employment Contracts Act and the applicable Collective Bargaining Agreements (CBAs).

It is important to reserve enough time for planning of any transformation project, as terminations of employment, including the change negotiation process described below are strictly regulated by law and there is a substantial financial risk from non-compliance. The negotiation process must be followed before any actual decisions are made.

Furthermore, as the latest version of the Co-operation Act entered into force on 1 January 2022, it is important to ensure that the organization's knowledge and processes are up-to-date. For example, there may be CBA-specific provisions applicable to workforce transformations that employers should take into account.

Information and consultation obligations

According to the Co-operation Act, an employer is under an obligation to conduct change negotiations when the organization is considering terminations, layoffs, shifting to part-time work or unilateral changes to the essential conditions in an employment agreement. This could concern one or more employees and be due to financial reasons or production-related grounds. In addition, certain other employer plans affecting one or more employees are subject to a prior negotiation obligation.

There are some variations on how this obligation may be met, depending on the circumstances, when it comes to potential redundancies.

Employers must initiate the change negotiations by issuing a detailed written proposal for negotiations. The proposal needs to be provided to the authorities as well.

The change negotiations shall be conducted with employee representatives. If no employee representatives have been elected, change negotiations will be conducted directly with the affected employees.

The negotiations should discuss the grounds, effects and alternatives to the planned measures affecting the employees. Additional topics to be discussed include alternatives for limiting the number of employees affected by the planned measures, as well as alternatives for mitigating the adverse effects of the measures. Furthermore, the employee representatives must be given an opportunity to present proposals and alternative solutions to be considered.

Limiting the negative impact

When an employer is considering terminations on financial or production-related grounds affecting at least 10 employees, the employer must present an action plan to promote employment, which shall include, among other things, the planned principles according to which the search for alternative employment, education, and the use of public employment services

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are promoted. When the employer's plan affects fewer than 10 employees, the employer must present the principles of action according to which the impacted employees will be supported (e.g., with their application for alternative employment and education).

Employees to be made redundant are entitled to paid employment leave, during which the employee can participate re-employment activities (e.g., in the preparation of an employment plan and in labor market training).

Employers with 30 or more employees are furthermore obliged to offer affected employees with more than five years of working history with the employer the opportunity to participate in re-employment coaching or training paid for by the employer.

Estimated timeline

As mentioned above, the change negotiations shall take place when an employer is considering measures that may lead to redundancies (i.e., before any decisions have been made).

According to the Co-operation Act, the employer shall issue the written proposal for negotiations at least five days prior to commencement of the negotiations. The minimum negotiation period set out in the Co-operation Act is either 14 days or six weeks, depending on whether the employer is considering redundancies of fewer than 10 employees (14 days) or at least 10 employees (six weeks). For organizations that normally employ at least 20 but fewer than 30 employees, the negotiation period is 14 days.

After having fulfilled the duty to negotiate, the employer shall within a reasonable time provide the employee representatives with the employer's report on the decisions considered based on the change negotiations.

Should the negotiations lead into terminations of employment, the applicable notice period of each affected employee must be provided. The maximum notice period under the Employment Contracts Act is six months.

Estimated costs

In addition to the costs related to conducting the change negotiation process, employees made redundant are entitled to their regular salary and benefits during their notice period and compensation for any accrued but untaken annual leave.

Other costs may include mandatory re-employment coaching or training provided by the employer. In certain situations, the employer may become liable to pay compensation for unemployment benefits due to the redundancies.

Employers may also opt to support employees on a voluntary basis and provide so-called golden parachutes that are payable in addition to the salary in lieu of a notice period.

France

Planning a workforce transformation project

French law provides employers with several tools to conduct a workforce transformation project, such as engaging external service providers, modifying work conditions or work organization, or developing specific training plans to upskill the workforce.

Workforce organization and structure can also be modified through a Collective Bargaining Agreement (CBA) ("accord de performance collective") with trade unions, a legal scheme allowing the employer to significantly reduce the working time and remuneration without the employees' consent; they could be dismissed for refusing it.

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Some of these tools are based on termination or voluntary departures. When more than 10 employees are affected in an organization with more than 50 employees, the employer may proceed with a collective redundancy by applying the social plan scheme ("plan de sauvegarde de l'emploi"). The employer can also proceed to institute a voluntary departure plan ("plan de départ volontaire").

In these cases, the dismissals need to be based on valid grounds, and the existence of economic difficulties for the employer will be assessed on a case-by-case basis.

Workforce transformation can also be implemented through a collective mutual termination ("rupture conventionnelle collective") without any specific economic justification, but it requires trade union negotiation, labor administration approval and the employees' consent.

Information and consultation obligations

In France, it is mandatory to inform and consult with the organization's Social and Economic Committee (SEC) and the employee representative body.

This is particularly important for decisions which may have an impact on the workforce structure, volume or on employment and working conditions.

In some cases, a company's CBA must be negotiated with trade unions. Where applicable, labor authorities may also be involved to validate the content of any agreement.

Limiting the negative impact

Whatever the mechanism chosen, supporting measures must be implemented internally or externally to help employees to avoid unemployment.

There are various potential measures that includes redeployment, training session, geographic mobility, support for the creation or takeover of an existing company, use of an outplacement company, incentive bonus for voluntary departure, payment of moving costs for an employee, etc. Senior employees may also benefit from early retirement.

Estimated timeline

While the timeline will depend on context of a workforce transformation project and depend on the chosen mechanism, some steps are mandatory and thus cannot be avoided (e.g., the planning phase, the provision of information to, and consultation with, the SEC).

Others steps are optional (e.g., the negotiation of an CBA or holding, individual meetings with potentially affected employees).

The project plan is sometimes required to be submitted to the labor authorities for validation.

Depending on these steps, a workforce transformation project can be carried out in between 1.5 months to six months or may take longer.

Estimated costs

When a termination is considered, severances will be given to each affected employee depending on the applicable CBA, length of service, etc.

Beyond the termination indemnity, the measures implemented to support employees internally or externally will constitute the main part of the budget. The total amount will depend on the organization's size, the number of employees affected and the measures chosen.

Georgia

Planning a workforce transformation project

Workforce transformation involving employment terminations may only happen lawfully due to economic, technological or organizational changes requiring workforce downsizing.

Information and consultation obligations

According to the law in Georgia, an employee must receive written notification regarding necessary downsizing due to workforce transformation no later than 30 calendar days in advance. In these circumstances, an employee must receive severance pay of at least one month remuneration. Alternatively, an employer can notify an employee that it is terminating the employment agreement three calendar days in advance and remunerate an employee with the equivalent of at least two months' salary.

Upon an employee's request, within seven calendar days after termination, an employer is obliged to provide written substantiation of the grounds for terminating an employment agreement. If a written substantiation is not provided, an employee may bring court proceedings within 30 calendar days.

Workforce transformation qualifies as a collective redundancy if the following criteria are met:

- For organizations employing between 20 and 100 workers, at least 10 people are laid off within 30 calendar days.
- In an organization with more than 100 employees, at least 10% are dismissed within 30 calendar days.

Collective redundancy is therefore not dependent on an employee, their behavior or performance, or due to the expiry of an employment agreement.

An employer planning collective redundancies must start consultations with the employees' association or employee representatives within a reasonable time to reach a potential agreement. Consultations must at least include options for preventing collective redundancies or reducing the number of employees to be laid off, the possibility of re-employment for dismissed employees and support for their retraining.

An employer must send a written notification to the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia (Ministry) at least 45 calendar days before the collective redundancy takes affect.

The notification made by an employer must (within 30 calendar days) state:

- The reasons for the planned collective redundancy
- The number and category of employees to be dismissed
- The total number and categories of employees in the organization
- The period during which the collective redundancy will take place
- The criteria according to which employees to be dismissed are selected and compensated

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Limiting the negative impact

Consultations between the employees' association, or their representatives, and the employer allow the exchange of views and dialog in good faith to reach a potential agreement on relevant issues to the greatest extent possible.

In certain circumstances, employees are protected from dismissal. Employees may not be dismissed (subject to certain exceptions) during their maternity leave, parental leave, newborn adoption leave or additional parental leave.

Terminating labor relations is also invalid during an employee's conscripted military service, as well as during the period of being a member of a jury. Both above-mentioned instances are subject to certain exceptions.

Estimated timeline

A reorganization process has no specific timeline set by the law. The duration of the procedure depends on the complexity and magnitude of the reorganization or collective redundancy in question. In instances where the Ministry and employees' association or representatives are involved, the reorganization process takes more time due to the contribution of several parties and procedural formalities.

Estimated costs

The cost of workforce reorganization will depend on the complexity and the impact on the individual organization. The number of people to be laid off will determine the estimated financial impact on the organization. Furthermore, the employees' notice periods play a decisive role. In deciding to implement downsizing, an employer has two options:

- Notify an employee of dismissal no less than 30 calendar days in advance and pay at least one month of severance pay
- Notify an employee three calendar days in advance and remunerate an employee with at least two months' salary

Germany

Planning a workforce transformation project

External influences and strategic decisions are usually the main drivers for workforce transformation projects. This often leads to personnel restructuring. Diligent planning and due diligence with employment laws and regulations are key for a successful implementation of a workforce transformation project. Legal and operational workstreams must work together to achieve the defined target operating model.

Information and consultation obligations

If the planned workforce transformation is to be classified as a "change of business," (Betriebsänderung), then several information provision and consultation obligations to an existing works council are triggered, subject to section 111 of the German Works Constitutions Act. The initial obligation is that the employer must inform the works council in an appropriate and timely manner about the planned workforce transformation. In addition, the employer may need to initiate negotiations regarding the "reconciliation of interests" (Interessenausgleich) and potential social plan (Sozialplan). Unless the works council has received comprehensive information about the proposed transformation, the employer must not implement it. If the employer does so, the works council may file for a preliminary injunction against the employer, with the effect of halting any measure. In addition, the violation of the information and consultation obligations may be sanctioned as a criminal offense. In addition to the obligations to the works council, employers will also have to inform the Economic Committee (in most cases) – which is a statutory body established in addition to a works council in organizations with greater than 100 employees. If there is neither an Economic Committee nor a works council, information and consultation obligations are not shifted to the potentially affected employees. However, individual negotiations directly with each employee may be required if a termination of their individual employment relationship is proposed (as an alternative to a unilateral dismissal by the employer, which, in practice, usually leads to a subsequent court proceeding).

Limiting the negative impact

If employees face any economic disadvantage from the planned transformation project, mitigation is usually brought about by monetary compensation and severance payments that are granted by employers based on a social plan concluded with the works council, if any, or as part of a compromise agreement with the individual employee.

Overall, however, under German law, it is the primary obligation of an employer to avoid dismissals to the greatest extent possible and only make use thereof as an unavoidable situation. Hence, employers may be obliged to offer employees a redeployment within the entity, or even within the group prior to terminating the relevant employment relationships.

Estimated timeline

While businesses obviously often carry out short notice and immediate actions, mandatory formalities must be adhered to when it comes to workforce transformation. Therefore, a realistic timeline that

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balances both business and legal requirements is crucial. For consultation and negotiations with works councils, approximately three months is required. Employers should also allow sufficient time for official authorizations (e.g., regarding a mass dismissal declaration or seeking approval of the relevant labor authority).

In addition, employees' notice periods must be considered; making a general payment in lieu of notice is not usual in Germany.

Estimated costs

An estimated one-off cost of a workforce transformation usually comprises internal and external implementation cost (e.g., time and cost of internal resources for implementation or cost for communication support) as well as severance payments. Regarding the latter, estimated costs significantly depend on the outcome of the negotiations about the social plan (or in the absence of a works council on the termination agreement with each employee, if any). Therefore, it is very difficult to specify a minimum nor a maximum severance payment amount.

Greece

Planning a workforce transformation project

The consequences of COVID-19 pandemic as well as the ongoing energy crisis have disrupted economies worldwide. Organizations in various sectors have been forced to adapt their operations to overcome these challenges. The uncertainty and the decline in economic activity is likely to result in many organizations restructuring their business. Therefore, employers are advised to adhere to leading practices regarding workforce transformation as it is crucial for enterprises to evolve in a sustainable way.

Information and consultation obligations

Workforce reduction initiatives may be implemented on a temporary or permanent basis. In either case, and on the basis of Articles 3 and 4 of PD 240/2006, a general rule is established to mandate information and consultation between the employer and the affected employees when there is likely to be any amendment to the activities or the employment conditions within the organization.

If business activities are restricted, for example, due to the organization's financial situation, the employer may either proceed with terminating employment contracts or implementing alternative interim measures.

This may include, for example, instead of terminating an employment contract, the employer may impose unilaterally an "on rotation" system in its operations. Another option may be to presume full-time employment of the employee while they remain on rotation. The duration of this system may not exceed nine months in the same calendar year and may be implemented only if the employer has previously informed and consulted with employees' legal representatives about the proposal (without imposing any obligation to reach an agreement).

An agreement with employee representatives, or the employer's unilateral decision should be communicated within eight days to the relevant labor Inspectorate.

When the employer is considering a transfer of business as solution to adapt to new business conditions, this must be undertaken in accordance with Article 8 of P.D. 178/2002 (which implements the European Council Directive 2001/23/EC). In order for such a transfer to be valid, the employer must fulfil the requirement to provide information and undertake consultation between the transferor, the transferee and the representatives of the employees. The information and consultation should cover all details of the proposed transfer and any impact on the employment relationships. This process should be completed in advance of the transfer, although no agreement with the employees' representatives is required for the transfer to be valid.

At any time in the organization's day-to-day operations, an employer has the option to proceed with individual redundancies for financial reasons. In this case, the social criteria should be taken into consideration. Collective redundancies are applicable to organizations that employ more than 20 people. During a specific calendar cycle, the following actions are permitted:

- Six terminations for organizations between 20 to 150 people
- Termination of upto 5% of personnel, up to a maximum of 30 employees, for organizations employing more than 150 people

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For such collective redundancies, the employer is obliged to notify and consult with employee representatives. The consultation minutes are drafted and submitted to the Supreme Labor Council (SLC). Specifically, if there is an agreement between parties, the terminations must take place in accordance with the content of the agreement and will be valid after 10 days from the date of submission of the consultation minutes to SLC. If there is no agreement, then the SLC, by virtue of a reasoned decision, within a deadline of 10 days determines if the conditions for consultation are met. If the consultation is deemed to be compliant by the SLC, the terminations will be valid after 20 days from the issuance of the judge's decision. If not, then the consultation period between parties must be extended. In any case, the terminations will be valid after 60 days from the submission of the consultation minutes to the SLC.

It is generally accepted that having a consensus with employee representatives is always the best approach for employers implementing workforce transformation projects because it minimizes litigation risks and negative reputational exposure.

Limiting the negative impact

Under Greek law, it is the primary obligation of an employer making redundancies to take into consideration the proportionality principle while proceeding with necessary transformations. The termination of the employment contract without the prior consideration of alternative, 'soft' measures may be deemed to show the employer is not acting in good faith and is not abiding by the principle that termination is the only remaining option.

Taking that approach into account, and noting that those employees with the best performance record have an advantage over the rest of the personnel, any amendment to the working conditions of an employee should be the 'softer' one and always decided based on the consideration of criteria such as:

- Seniority
- Age
- Family responsibilities
- Financial situation
- Any constraints in finding a new job

Employers are recommended, for example, to offer an affected employee another existing vacant position for which the latter is qualified, and only if such an option is not available, then only should the employer proceed with other actions.

The Greek legal framework provides options to limit the negative impact both in cases of transfer of undertakings as well as in cases of collective redundancies. In both processes, consulting with the employees is the best way to mitigate the effects of the workforce transformation.

Estimated timeline

The mandatory formalities for the lawful implementation of the workforce transformation project make it a time-consuming exercise in Greece. The exact duration of the applicable process depends on the option implemented and the size of the organization.

In the event of transfer of undertakings, the law doesn't specify a particular timeline, but the consultations should take place in advance of the transfer. In this context, from a practical point of view, the estimated timeline is about one to two months prior to the transfer.

In the event of collective redundancies, and if there is no consensus, a timeline of at least two months should be taken into consideration.

In individual termination cases, employees' individual notice periods should also be considered, even though a payment in lieu of a notice period is an option in Greece.

Estimated costs

The cost of a workforce transformation project may differ by entity. A great variety of internal and external implementation costs should be considered, such as communication and organizational costs.

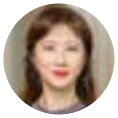
The major factor affecting costs is severance payments, which, pursuant to Greek law, are due to employees under permanent employment contracts, according to the seniority of each employee with the same employer and whether a notice period has been provided.

Hong Kong

Planning a workforce transformation project

As a starting point, the employer may find it preferable to reallocate work or conduct job transfers with an aim of utilizing personnel in a more rationalized and efficient operating model. If there is a genuine surplus, the employer may invite employees to voluntarily resign or retire with an agreed compensation package. Due consideration should also be given to whether the workforce transformation may affect commitments to customers or normal business operations.

If redundancies must take place, the process should be carried out in accordance with law and with certain practical considerations in mind. If a redundancy process is not handled properly, it may expose the employer to criminal and civil liabilities as well as adverse publicity.



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The employer should carefully identify the termination clauses and payment obligations under the relevant employment contracts. Employment policies and employee handbooks that contain redundancy processes or severance payments which are enforceable should also be considered. If the contractual redundancy payments are less than the statutory amounts, the latter prevails.

After dealing with the overstaffing issue, the employer may consider maintaining manpower flexibility by hiring part-time workers or engaging employees on fixed-term contracts that are renewed by mutual agreement.

Information and consultation obligations

Despite there being no general requirement under Hong Kong law to engage in collective employee consultations, it is recommended that employers consult employees affected by the transformation process on either a collective or individual basis. This dialog may produce a mutually beneficial outcome for both parties, such as:

- Employees who agree to leave on a voluntary basis may obtain the agreed compensation, while employees who agree to take alternative roles will retain their jobs and may be able to develop a wider range of skills and avail themselves of other opportunities
- The employer may be able to retain experienced employees, maintain staff morale and minimize business disruption

Unfortunately, consultation may not resolve all situations. When the employer has to make certain employees redundant, it is suggested that the employer should:

- Determine the business functions that must reduce headcount
- Formulate fair and objective selection criteria to assess the employees to be made redundant
- Treat employees equally
- Ensure that redundancies are not made for discriminatory reasons:
  - Gender
  - Marital status
  - Pregnancy
  - Health situation
  - Family status
  - Race
  - National

    or
  - Ethnic origin

  as these reasons may breach the anti-discrimination laws in Hong Kong.

After a decision is made regarding redundancy, the employer must give due notice of termination (or payment in lieu of notice) in accordance with the employee's contractual entitlement and the statutory requirements (whichever is more stringent).

Limiting the negative impact of redundancies

A successful consultation and transformation program will minimize disruption to the workplace and staff morale, as well as ensure customer demands are satisfied during the difficult period and in future. The consultation process should be well-documented, including:

- The basis for the transformation or redundancy decisions
- Alternatives explored by the employer
- Consultation process criteria
- Redundancy process
- Arrangements made for the affected employees
- Legal advice that has been sought

Such documentation may provide the employer with better protection should any actions be subsequently challenged.

Estimated timeline

A typical employment contract in Hong Kong carries a notice period of one to three months, while the notice period of senior executives may be much longer. This period may be reduced or dispensed with by mutual agreement. The employer may instead elect to make a payment in lieu of notice and the employee has the right to demand the same.

Estimated costs

The employer should take extra care in calculating a suitable payment package for employees who are not offered job transfers or alternative work arrangements and are selected for redundancy. In addition to the statutory severance payments, the employer must make the following additional payments when an employee is made redundant:

- Contractual severance payments exceeding the above statutory minimum
- Wages up to and including the date of termination of employment
- Payment in lieu of notice (if applicable)
- Payment in lieu of accrued but untaken annual leave
- Allowances or reimbursement of personal expenses contracted and incurred by the employee (e.g., travel, accommodation, meals and education)
- Contractual bonuses or commissions
- Compensation in connection with stock or stock options (if applicable)
- Payment to the Mandatory Provident Fund scheme or other occupational retirement scheme

Hungary

Planning a workforce transformation project

In the Hungarian aspects of the workforce transformation, the collective redundancies are governed by Sec. 71–76 of the Labor Code. Collective redundancy obligations are triggered if an employer dismisses within 30 days.

- At least 10 employees for organizations employing between 21 and 99 people
- At least 10% of its employees for organizations employing between 100 and 299 people
- At least 30 employees while employing 300 or more people

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The reason for a collective redundancy must relate to the operations of the employer and be unrelated to the individual employee (i.e., it is not connected with the abilities or behavior of the employee). The grounds must be valid, justified and reasonable.

Information and consultation obligations

Under Hungarian law, the employer shall inform the works council in writing concerning all relevant information regarding the proposed collective redundancy at least seven days before the consultation. This must include:

- The reasons for the proposed collective redundancies
- The number of employees to be made redundant (broken down by categories or the number of employees employed during the preceding six-month period)
- The period over which the proposed redundancies are to be effected and the timetable for their implementation
- The criteria proposed for the selection of the employees to be made redundant
- The conditions for and the extent of benefits provided in connection with the termination of employment relationships other than what is prescribed in employment regulations

The employer shall then initiate a consultation with the works council that must last at least 15 days unless an agreement is reached prior to that time. The employer is not obliged to conclude an agreement but must consult in good faith with the purpose of concluding an agreement. The employer may not carry out any planned measure (such as a collective redundancy) during the time of negotiations or for up to seven days from the first day of negotiations unless a longer time limit is agreed. In the absence of an agreement, the employer may terminate negotiations when the said time limit (15 days) expires.

In Hungary, the employer is not obliged to initiate a consultation with trade unions. However, trade unions have the right to initiate consultation in connection with any planned measure by the employer which affects employees, such as a collective redundancy. If a consultation is initiated, the employer may not carry out its planned measure (such as a collective redundancy) during the time of consultation, or for up to seven days from the first day of consultation, unless a longer time limit is agreed. In the absence of an agreement the employer may terminate the consultation when the said time limit expires.

The Hungarian labor code does not require specific consultation requirements with other employee representatives. There is no legal barrier to open communication with employees regarding a collective redundancy. After consultation with the works council, the employer may decide to implement the planned collective redundancy. Moreover, the employer must notify the affected employees in writing about the decision regarding mass redundancy at least 30 days prior to delivering the notice of dismissal.

Limiting the negative impact

There is no explicit legal obligation for the employer to limit the impact of the collective redundancy. However, during the negotiations between the employer and the works council they shall, at a minimum, cover the following:

- Possible alternatives to avoid collective redundancies
- Principles for deciding upon redundancies
- Means of mitigating the consequences of the proposed employer action
- Efforts to limit the number of impacted employees

Moreover, there is no statutory obligation to offer internal alternative employment or redeployment for the impacted employees in Hungary.

Estimated timeline

The legal time frame to fully implement a collective redundancy may take up to approximately two months. However, the time required to fully implement a large-scale redundancy may vary depending on the number of redundancies, the applicable Collective Bargaining Agreement applicable and the unique circumstances of the employer.

Estimated costs

The key components of mandatory HR legal costs are as follows:

- Compensation for the notice period – a minimum of 30 days (for the termination of an indefinite-term employment contract with notice), which may be extended based on the affected employee's years of service with the employer. This means, for example, that a total of 35 days payable for employees with at least three, but less than five, years of service. For those with at least five, but less than eight, years of service a total of 45 days.
- Severance payment – the affected employee's absentee payment (as defined by the Hungarian labor code) subject to their years of service with the employer. This amount is increased from one to three months for affected employees close to retirement age, subject to the length of their service with the employer
- Compensation for unused annual leave

Furthermore, as the notice of dismissal or the dismissal without notice may only be delivered after 30 days following the time of written notification by the employer of its decision regarding collective redundancy, the potential cost of retaining the employee for this 30-day period must be calculated.

Customary additional HR legal costs may include payments such as bonuses, non-compete compensation or additional payments (e.g., agreed longer notice periods, higher severance) if stipulated in the employment contract.

Indonesia

Planning a workforce transformation project

Termination of employment relations can only be carried out according to the reasons listed in the labor law, which are, in essence, due to:

- Merger, consolidation, spin-off or acquisition
- Change in terms of employment due to the acquisition
- Employment efficiency due to loss, or to prevent loss
- Company closure
- Force majeure
- If the company is in the suspension of a debt payment obligation
- Bankruptcy

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Other reasons may also be determined from the employment agreement, company regulation or contained in the Collective Bargaining Agreement (if applicable). For workforce transformation, the employer must also make sure that the reason is one listed above.

In Indonesia, all parties involved in industrial relations (i.e., employer, employees, trade unions and the Government) have an obligation to avoid termination as the consequence of workforce transformation projects by carrying out "positive actions". If after such actions, termination remains unavoidable, the employer may terminate employees upon written notice, with reasons for the termination provided to the affected employees and any relevant trade unions. The employee then has the right to object, negotiate and commence legal proceedings for wrongful dismissal by following mechanisms provided under the law.

Information and consultation obligations

If a workforce transformation results in termination of employment, it must be preceded by positive actions. The law provides examples of positive actions, such as:

- Managing the working hours
- Increasing efficiency
- Improvement in working methods
- Providing employee training

Workforce transformations may mean that employers must also include consultation with the employees to negotiate conditions to maintain the employment relations.

Upon receiving the notification of termination, the employees may agree or reject it. If agreed, the termination must be documented in a mutually agreed joint agreement that should be registered at the applicable Local Employment Office and Industrial Relations Court.

If the employee rejects the termination, the employer must proceed through a formal termination process. This involves the following steps:

- Negotiation between the employer and the employees or trade union
- If the negotiation fails, the issue must be settled by mediation or conciliation at the Local Employment Office
- If the mediation or conciliation fails and termination is the only option, then the termination decision will be finalized by the Industrial Relations Court

Limiting the negative impact

To limit the impact of termination due to workforce transformation, the law require employers to provide a severance package. The amount of such package depends on the term of employment and reasons for termination.

Estimated timeline

Written notice should be served to the employee 14 working days prior to the effective date of termination. The employee may then object to the termination within seven days of receiving such written notice.

When an employee decides to submit an objection to the termination, the typical formal proceeding takes approximately four to six months until a decision by the Industrial Relations Court.

Estimated costs

The costs of terminating employees due to workforce transformation vary, as the severance package depends on the term of employment and reasons for termination. Additional costs may also be incurred for any judicial proceedings.

Ireland

Planning a workforce transformation project

Before implementing a workforce transformation project, employers should be aware of all potential employment law obligations. There are more onerous obligations in Ireland when carrying out a collective redundancy under the Protection of Employment Acts 1977–2014 (the Act). A collective redundancy occurs where in any period of 30 days, the number of employees being made redundant are at least:

- Five employees, for organizations employing between 20 and 50 persons
- 10 employees, where the organization employs between 50 and 100 people
- 10% of employees, where the organization employs between 100 and 300 people
- 30 employees, where the organization employs 300 or more people

In smaller redundancy scenarios, employers must adhere to the Redundancy Payments Act 1967–2014 (the RP Act).

Information and consultation obligations

Organizations with 50 or more employees are legally obliged to provide information and engage in consultation during a redundancy scenario. An employer must establish an information and consultation forum and agree on the rules for the forum. Matters about which the employees should be informed and consulted include decisions likely to lead to substantial changes in the workplace, such as a proposed workforce transformation.

There is a 30-day statutory consultation period for any proposed redundancies. This consultation should be conducted with employees' elected representatives with the intention of reaching an agreement on alternatives to the proposed redundancies. Employee representatives must be given all relevant information, including the selection criteria used to identify selected employees. While it is not necessary for an agreement to be reached, a genuine effort must be made by the employer.

There is no statutory information and consultation procedure for non-collective (smaller scale) redundancies. At a minimum, consultation to explain the reason for redundancy and to consider whether any alternatives are feasible, is suggested as a best practice.

Limiting the negative impact

All proposals put forward by employees to avoid redundancy should be properly considered. Common examples of alternatives include:

- Reduced working hours
- Job sharing
- Redeployment
- Upskilling and retraining
- Layoffs or temporary short time

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Estimated timelines

Individual redundancy consultations can be completed in two to three weeks. As noted above, collective redundancies require 30 days consultation. A written notice must be provided to the Minister for Enterprise, Trade and Employment at least 30 days before the first notice of redundancy is issued. Assuming that employees are required to work out their notice period, employers should expect processes to complete in about 10 working weeks on average, depending on the duration of contractual notice periods.

Estimated costs

Employees with more than two years of service are entitled to statutory redundancy, which is calculated as follows:

- Two weeks' remuneration for each year of continuous and reckonable service
- One week of extra remuneration

Weekly remuneration is capped at €600. Contractual notice is paid in addition to this sum.

Additional "ex-gratia" payments are often made in Ireland, depending on the practice in a particular sector.

Italy

Planning a workforce transformation project

In Italy, any workforce transformation must be preceded by preliminary planning and preparation. The Italian laws and Collective Bargaining Agreement at the organizational, territorial or national level provide for several obligations and specific timelines regarding both information and consultation procedures with the employee representatives or with the employees themselves. These laws are applicable dependant on the basis of the restructuring plan to be implemented.

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By way of example, Law 223/1991 states that when an employer plans to dismiss more than 15 employees, they must dismiss at least five employees in the same province within 120 days. The reasons for the dismissal can be workforce reduction, transformation, or cessation of the work activity.

Information and consultation obligations

For redundancies, a written notice must be provided by the employer to the competent trade unions. This notice shall indicate the reasons for the dismissal, the number and qualifications of the usual staff compared to the affected employees to be made redundant, and the date on which the planned dismissals will be effective.

Upon request of the trade unions, a consultation phase may commence and shall be completed within a defined term, irrespective of the achievement of an agreement with the trade unions.

After the completion of the consultation, the employer may instigate the dismissals (usually in the following 120 days) by issuing a written notice to each affected employee. The names and data of the dismissed employees, as well as the criteria followed for their selection, must be communicated to the competent labor office within seven days from the dismissal.

Limiting the negative impact

In the context of the information and consultation procedure with the trade unions, the parties might evaluate, together with the criteria for the selection of the redundant employees, possible alternatives to the dismissals or agree on measures aimed at limiting the negative impacts of the redundancies (e.g., wage integration funds, secondments, economic incentives).

Estimated timeline

Italian law provides for a detailed and strict timing for the dismissal procedure, which must be concluded within 75 days (with or without an agreement).

Estimated costs

With reference to the costs, the employer is required to pay the Italian social security institute (INPS) a "Special Contribution" for each dismissed employee. This contribution is aimed at financing the state unemployment benefit, known as NASPI.

Upon dismissal, all the employees are entitled to receive the following payments (plus any further incentive to leave, which may be provided for, in the agreement reached with the trade unions):

- The severance indemnity (TFR)
- Minor termination indemnities (such as the indemnity in lieu of unused annual leave and the accrued pro rata 13th month salary)
- The notice period, or the indemnity in lieu of notice the duration for which varies according to the employees' seniority and professional level. It is usually established by the applicable national Collective Bargaining Agreement. In any case, any agreement with the trade unions might introduce derogations from the standard payments

Japan

Planning a workforce transformation project

A workforce transformation often entails a reduction of the workforce, which comprises legal risks. This article deals with the legal aspects of workforce reduction.

For workforce reduction, it is usual in Japan for an employer to seek termination of employment by agreement, rather than dismissing employees at the outset. This is primarily because confirming the validity of a dismissal due to a legitimate redundancy is challenging under Japanese law. Further, the fact that a termination by agreement has been sought (company-wide) prior to a dismissal for redundancy is one of the key factors when judging whether the dismissal should be deemed valid. Therefore, a dispute with employees arising due to an allegedly improper dismissal could divert significant time, effort and cost for the employer at a time when it would be looking to maximize the business value from a workforce transformation.

Planning a termination by agreement with the employees involves decisions on the following items:

- Explaining the rationale for the workforce reduction, including workforce planning after the project concludes
- The number of affected employees
- Economic incentives upon termination
- Communication planning

Information and consultation obligations

In Japan, there are no specific information or consultation obligations imposed on the employers when dealing with the employees' representatives regarding workforce reduction.

However, in practice, satisfactory communication with the employees and the trade unions (if any) is key to the success of the project. Fair and reasonable communication is one of the key factors to judge the validity of any dismissals by mutual terminations

The employers' general obligation under Collective Bargaining Agreements session is applicable, and an employer cannot refuse a trade union's request, without just cause, for a negotiation session.

Limiting the negative impact

Limiting the negative impact on the terminated employee is necessary for a valid termination by agreement. Further, it is also one of the key factors when judging whether the dismissal is valid. However, courts tend to focus on the employer's effort to avoid the dismissal itself.

Estimated timeline

Terminations of 30 or more employees in one month due to economic reasons would trigger an obligation to prepare a plan for re-employment assistance and submit it to the relevant authority at least one month prior to the first termination. To prepare the plan, input from the employees' representative must be obtained. The submitted plan needs to be certified by the relevant authority.

In addition, the timeline must be divided between the planning phase and the implementation phase. The implementation phase may include all-hands and individual meetings.

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Estimated costs

For termination by agreement, payments based on the existing employment and the termination agreements are mandatory.

For the dismissals, according to the relevant statutes, a 30-day notice or payment in lieu of the notice is required (although compliance with the notice period does not constitute just cause for a dismissal).

Kazakhstan

Planning a workforce transformation project

Workforce transformation projects require strict planning in advance to comply with the timeframe provided under the Kazakhstan legislation regarding prior notifications and payments due.

Information and consultation obligations

The notification procedure for staff reductions is regulated by law and must be strictly observed. The employer is obliged to notify the employee regarding the termination of the employment agreement at least one month in advance or seven calendar days for an employee engaged in temporary work. Employers should note that a longer notice period may be provided for in the employment agreement or the applicable Collective Bargaining Agreement — if so, the longer period prevails.

However, with the written consent of the employee, the termination of an employment contract may be carried out before the expiration of the notice period.

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In addition, an employer must issue an order (internal employer's act) to reduce the staff and notify the employment center at least one month before the reduction of the workforce.

It is important to note that the Collective Bargaining Agreement (if applicable) may include mutual obligations of the employees and the employer about the procedure for consulting with the trade union when terminating employment agreements for trade union members.

Limiting the negative impact

Changes in the organization of production, including during a business reorganization, or a reduction in the scope of work for the employer may lead to a reduction in the number of employees. The employer has the right to introduce a part-time work regime to preserve jobs. This includes one of the following:

- Enforce part-time work, resulting a decrease in the duration of daily work (work shift)
- A shorter working week, a reduction in the number of working days in a working week
- Both a work shift and a reduction in the number of working days in a working week at the same time.

The employer must notify the employee, in writing, of a change in working conditions in the specified circumstances no later than 15 calendar days in advance, unless the employment contract provides for a longer notice period.

It is important for employers to consider that terminating certain employees requires a positive decision from a committee made up of an equal number of representatives from the employer and the employees. This refers to certain employees who are about to reach retirement age or who have been employed for less than two years.

In addition, it is prohibited to make redundant:

- Female employees with children under the age of three
- Pregnant women (who provide a certificate of pregnancy to the employer)
- Single mothers raising a child under the age of 14, or a child under 18 with a disability
- Other persons raising the specified category of children without a mother

Estimated timeline

The minimum timeframe for the termination procedure is one month after the notification has been provided to the employees and the employment center.

Estimated costs

In the event of a reduction in the number of employees, the employer must make compensation payments in connection with the loss of work in the amount of the average monthly salary (or in the amount of two weeks' average wages for temporary workers).

Employers should note that an employment agreement, Collective Bargaining Agreement or employer's act may provide for a higher amount of compensation payment in connection with the termination of employment.

Lithuania

Planning a workforce transformation project

Workforce transformation covers a broad spectrum of HR-related activities, such as HR process digitization, transition to hybrid working, changes in remuneration systems to attract and retain talent and so on.

To compete in the global market and meet their business objectives, organizations must constantly transform their business operations.

Lithuanian labor law establishes mandatory procedures and formalities (e.g., notifications to employees, provision of information and consultation obligations) that are supposed to be followed before engaging in a workforce transformation activity related to the labor, economic and social rights and interests of the employees.

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Therefore, planning a workforce transformation project should begin with forming or selecting a multidisciplinary team that has the necessary experience and knowledge to assist, design, implement and coordinate transformation projects. The team should be comprised of experienced lawyers and HR specialists with project management experience to manage workforce transformations in a timely and cost-efficient manner. The project should also ensure compliance with local labor and employment law regulations.

Information and consultation obligations

An employer with an average of 20 employees or more must inform, and hold consultations with, the works council before adopting decisions regarding the following matters:

- Amendments to the rules of procedure, which establish the general procedure at the organization
- Amendments to work standards or the rules for establishing work standards
- The remuneration system, in the absence of a Collective Bargaining Agreement
- The procedure for the introduction of new technological processes
- The procedure for the use of information and communication technologies and for the monitoring and control of employees at the workplace
- The introduction of measures that violate the protection of an employee's private life
- The policy for the protection of the employee's personal data and measures for implementing the same
- The measures for implementation of the principles for the supervision of the implementation and enforcement of the equal opportunities policy
- The establishment of measures to reduce stress at work
- Other legal matters relevant to the social and economic position of employees

Therefore, every workforce transformation project cannot be started without proper and timely fulfillment of the duty to provide information and engage in consultation.

Limiting the negative impact

Where the employers considers downsizing and taking a decision to carry out a collective redundancy, the employer must inform and hold consultations with the works council. The employer must provide the work councils with written information regarding:

- The reasons for the planned dismissal
- The total number of employees and the number of redundancies by category
- The period during which the employment agreements will be terminated
- The selection criteria for redundancy
- The terms of employment contract termination and other relevant information

Based on the information provided, consultations with the works council shall be aimed at agreeing on any methods and measures which can be used to avoid the collective redundancy or reduce the number of redundancies. The consultation will also include steps taken to mitigate the consequences of this redundancy through additional social measures, including to retrain or rehire the employees who are expected to be made redundant.

In cases where redundancies are unavoidable, they should be carried out in accordance with the law, considering statutory severance payments and after minimum notice periods for termination of the employment contract which may vary depending on the employee's age or social status (e.g., illness, raising a child, seniority/age).

Estimated timelines

Proper planning and alignment with the organization's strategy might take from one week to six months, depending on the size of the company and the scope of the proposed workforce transformation project. Once the implementation phase starts, in most cases, the employer must provide the works council with written information at least seven working days prior to beginning of the planned consultation process. During the consultation procedures, the members of the works council have the right to submit their proposals in writing within 15 working days if no other deadline has been agreed upon during the first day of consultations. If the collective redundancies are being considered during the workforce transformation project, the period for written notification of termination of the employment agreement may vary from three working days to three months.

Estimated costs

The total cost of a workforce transformation project might differ depending on the size of the company and the project at hand.

The following elements should be considered while calculating the estimated costs of workforce transformation project in Lithuania:

- Statutory severance or redundancy payment to which each employee would have been entitled if dismissed during the ordinary course of business
- Holiday pay, end-of-year bonus and any other statutory or contractual salary elements established either personally or under the organization's remuneration policy (if applicable)
- Additional benefits negotiated in the context of a social plan (if applicable)
- Retraining or re-employment cost (if applicable)
- Administrative costs of the procedure (e.g., legal assistance, consultations with HR professionals)

Luxembourg

Planning a workforce transformation project

In Luxembourg, workforce transformation projects require careful preparation before implementation.

The employer must take into consideration all applicable local laws, including the sector and organization wide Collective Bargaining Agreements, if applicable.

Information and consultation obligations

In principle, the employee representatives (if applicable), have a right to be involved in the workforce transformation project throughout the information and consultation process.

In specific projects (e.g., full or partial transfer of undertaking, mergers), the employees have the right to receive any information directly (if no employee representatives have been designated).

A workforce transformation project is designated a collective dismissal if the dismissals are based on:

- One or more reasons unrelated to the employee's performance (i.e., due to the organization's financial or economic challenges) and amounts to seven dismissals over a period of 30 consecutive days,

  or

- 15 dismissals over a period of 90 consecutive days.

In any case, the employer must deal with the statutory information and consultation obligations before a decision is made regarding the workforce transformation project.

Further, the appropriate government authorities must be informed about the workforce transformation project.

Limiting the negative impact

The employer must negotiate a social plan if the collective dismissal process occurs in an organization with elected employee representatives or is covered by a sector-wide Collective Bargaining Agreement.

The social plan shall be negotiated with the employee representatives and the trade unions (if the organization is covered by a Collective Bargaining Agreement).

The negotiation of a social plan is composed of two stages.

In the first stage, the employer must inform the employees' representatives of the following items:

- The reasons and justifications for the social plan
- The number of categories and the total number of employees in the company
- The number of affected categories and employees
- The employer's proposed timeline for workforce transformation
- The criteria used to select the employees to be dismissed
- The calculation method for additional severance indemnities

In the second stage, the parties negotiate the social plan itself.

The purpose of these negotiations is firstly to try to reduce the number of dismissals by contemplating alternative options such as:

- Partial unemployment
- Reduction in the working time

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- Temporary secondment to external companies
- Early retirement for eligible employees
- Specific training to adapt the workforce to the skills required by the employer

Once all these options are discussed and, if possible agreed, the parties should negotiate additional benefits for the dismissed employees, such as:

- Extended notice periods
- Extra indemnities depending on, for example, the employee's age, years of service, family situation, etc.

Additional measures like budget for external training, outplacement services, or assistance with entrepreneurship may also be included in the social plan to alleviate the effects of the dismissals.

Estimated timeline

A workforce transformation project will need to be carefully prepared by collecting all relevant information, including:

- Specific indemnification rules, potentially deriving from the Collective Bargaining Agreement
- The existence of protected employees
- The existence of a European Works Council or similar body
- By assessing the global cost of the project
- By preparing a communication strategy for the employees' representatives, the staff, government authorities and engaging with the media

Due to the small size of Luxembourg, the reputational impact is also to be considered.

There is no legal timeline for the first information and consultation phase, whereas the negotiation of the social plan must be completed, in principle, within 15 days. This period is extended if parties cannot reach an agreement, after which it will be referred to the national conciliation body, which will consider the circumstances and assist the parties to find an agreement.

Estimated costs

In Luxembourg, the total cost of the workforce transformation project varies depending on several factors, like the applicable Collective Bargaining Agreement or internal rules as well as, the age, seniority and monthly salaries of the employees impacted by the project.

The following items must be included for the cost estimation:

- Notice period indemnity and associated social security contributions
- Severance indemnities
- Remaining contractual amounts (i.e., remaining paid annual leave, potential overtime, bonuses, commissions and other amounts owed to the employees, as well as the associated social security contributions)
- Additional benefits granted in the social plan if any (e.g., additional indemnities, outplacement services, external training)
- If no social plans are in place, provision for litigation costs should be included in the budget
- Administrative costs of the procedure (including internal HR costs, fees for external advisors, such as lawyers, communication and PR agencies)

Mexico

Planning a workforce transformation project

Transforming and preparing your workforce for a changing working world is fundamental to achieve business success. Employers are grappling with fundamental workforce questions, such as:

- How does our workforce look today?
- Is it ready to face the market?
- Do you have the right people?
- Do they thrive in your workplace?

A universal trend, deepened by the COVID-19 pandemic, is the disruption of traditional work patterns and the employee's revaluation of working conditions and what matters most to them.

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What used to be desirable or expected to successfully source, manage, motivate and retain talent has drastically changed.

It is recommended that organizations conduct a comprehensive analysis of the needs and wants of their workforce, as well as their own strengths, weaknesses, capabilities and goals. This helps to evaluate whether the workforce transformation project is advisable. If so, the analysis will help to and create and follow a step-by-step plan.

Once the decision to carry out a workforce transformation project is taken, labor and employment law obligations must determine the process to be followed.

In Mexico, employers must consider the following:

- Know your organization. Consider present and future business objectives, short and long-term goals and strategies, leadership style, career progression, development plans, corporate governance, policies and programs.
- Know your workforce. Consider among others, some important aspects in a workforce transformation context, such as demographics, hiring conditions, seniority, compensation and benefits, union affiliation, work environment and workforce trends.
- Determine which elements are contributing toward an efficient and successful operation, where employees feel valued, developed and appreciated. In addition, detect which practices are worth maintaining and which need to be ceased.
- Identify the available legal resources that facilitate productive working conditions, and clarify compliance obligations. For instance, the federal labor law regulates remote working, where employees are not mandated to work from a particular location. In addition, this law encourages employers to utilize digital technologies where appropriate.
- Determine the most suitable strategy to achieve the chosen objective (e.g., adjustment of working conditions) or a more substantial outcome, such as downsizing.

Information and consultation obligations

Depending on the chosen strategy, a workforce transformation project entails diverse procedures, legal requirements and business challenges.

From the labor law standpoint, executing a transformation project may imply, among others:

- Modifying individual employment agreements,
- Collective Bargaining Agreements,
- Internal work regulations,
- Creating new employment relationships,

  and

- Modifying or terminating existing ones.

Amending certain labor documents means submitting proposed modifications to the relevant labor authorities in Mexico. The labor authority then evaluates the proposed amendment's compliance with legal requirements.

The documents may be rejected by the authority if the working conditions do not, in the authority's opinion, comply with the minimum rights and requirements established by the federal labor law. Non-compliance with information obligations may be sanctioned via fines.

Some workforce transformation projects may result in the obligation to pay severance or other compensation. Therefore, case-by-case analysis is recommended to mitigate potential disputes.

Regardless of the scale of the project or objectives, organizations should consider an efficient communication strategy with their employees, the trade union (if applicable) and labor authorities.

References:

1 Constitución Política de los Estados Unidos Mexicanos (2022)

2 Ley Federal del Trabajo (2022)

3 Darrell, L. (2022). The great resignation.

Limiting the negative impact

Successful workforce transformation leads to stronger, productive and efficient organizations where employees are valued, developed and cared for. However, this process can be challenging for employers and employees. There may be a period of uncertainty, before adapting to the new way of working.

To mitigate any negative impact of a transformation project, organizations must have a comprehensive step-by-step plan that includes compliance with legal obligations, amending or adapting labor documents, software, payroll platforms, policies and any other factors before going live. This should include a communication plan.

Support from the internal and the external consultancy and implementation teams can mean the difference between a smooth and a rough and costly transition.

Estimated timeline

Timelines will vary according to the adaptability and flexibility of the organization, as well as the size and characteristics of the workforce.

While designing a step-by-step plan, it is necessary to consider the time needed for the organization to comply with legal obligations and requirements set out by labor authorities, as well as the said authorities' response timeframe (between two to four weeks per procedure).

Estimated costs

The estimated costs depend on which step or phase the organization is at, for example:

- Analysis and proposal of possible strategies to transform the workforce
- Design of a detailed implementation plan, including every aspect that should be addressed in the chosen strategy
- Implementation of the plan and communication strategies.

Netherlands

Planning a workforce transformation project

In the Netherlands, a so-called closed dismissal system is in place. Depending on the termination reasoning, the dismissal must either be processed via the Public Employment Service (PES) or the competent Sub-District Court. In the event of dismissal due to a reorganization (such as a reorganization for economic or strategic reasons), only the PES is competent to rule. The employer must apply to the PES for permission prior to giving formal notice to the affected employees. In addition to providing the PES with all relevant information regarding the economic or organizational reasoning, the employer must determine which positions will be made redundant. The sequence of dismissal will be determined by the so-called reflection principle to ensure that all age categories within the workforce are equally affected. This method is regarded as transparent and objective. Although not usual, in certain cases the method of 'musical chairs' is applied. This method is often challenged in court if not handled correctly. Following either method and due to certain organizational changes, new roles and functions will be implemented with a different set of competencies and job requirements. These differences need to be sufficiently justifiable and transparent and of such an extent that the new function profile is clearly different from the old function profile. All employees affected by such organizational change will be allowed to apply for the newly created positions and must be selected through objective methods, such as an assessment.

Information and consultation obligations

A works council has the right to render its opinion if there is a proposed decision concerning either a significant change to the operating model of the organization, the distribution of competencies or control over the organization. The works council's opinion needs to be provided within the appropriate timeline it can be considered during the decision-making process. For a negative opinion about the change, a one-month waiting period applies prior to the employer being able to implement the change. During this waiting period, the works council may seek a court decision at the Commercial Court in Amsterdam. For small organizations without a works council under certain conditions, an organization-wide 'townhall' meeting is required prior to implementing changes that affect a minimum of 25% of the total workforce.

If the reorganization leads to collective dismissal, additional information and consultation obligations apply. Collective dismissal occurs if the employer plans to terminate at least 20 employment contracts within a three-month period. Prior notification to the PES and the trade unions is required. The employer is obliged to discuss the consequences for the employees with the trade unions. In practice, this results in the negotiation of a social plan. Finally, an employer may be obliged to inform the unions of important changes to the workforce based on a Collective Bargaining Agreement (if applicable).

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Limiting the negative impact

To minimize the adverse consequences of the reorganization, a social plan may be concluded. This social plan includes arrangements with respect to the consequences of the reorganization and how to deal with the implications. A social plan is an agreement between the employer and the employee representatives, trade unions or the works council. It should be noted that concluding a social plan is not an obligation under the Dutch law. However, many Collective Bargaining Agreements do contain arrangements on this subject. In practice, a social plan is usually agreed upon together with the trade union(s) in the event of a collective dismissal.

Estimated timeline

A reorganization process has no specific timeline. The duration and steps depend on the complexity and whether there is a works council established. In general, the works council has the right to provide its opinion. The works council can only provide an opinion if it has a complete understanding of the intended decision. The works council depends on the information received from the employer or the director of the company. The speed of the process therefore, depends on the pace and quality of the information provided. The process usually takes between two to six months depending on the complexity.

Estimated costs

The employer must consider several costs. For a dismissal, employers must pay, in principle, a severance payment. The calculation of the severance payment contains a reward for seniority. The employee is entitled to one-third of the monthly gross salary, including 8% holiday allowance and average bonus (over the last three years) for each year of service. Furthermore, the employees' notice periods must in general also be observed. During this period, the employee will remain entitled to their gross monthly salary, including holiday allowance and other emoluments.

New Zealand

Planning a workforce transformation project

Workforce restructuring and any resulting employee redundancies must be managed by employers in accordance with the relevant provisions of the Employment Relations Act 2000 (ERA) and case law. Any workforce restructuring or redundancy, or both, should meet two legal tests:

- Substantive (or legal) justification
- Procedural fairness

Information and consultation obligations

The ERA requires parties to an employment agreement to deal with each other in good faith. As a result, where an employer proposes to make a decision that will or is likely to have an adverse effect on an employee's continuation of employment or change the employee's role, the following points must be adhered to:

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- Provide the employee with access to the relevant information.
- Give the employee an opportunity to provide feedback on that information.
- Genuinely consider that feedback before a decision to restructure is made.

If the employment agreement sets out the consultation process for a proposed restructure, the employer must follow that process. If the employer is party to a Collective Bargaining Agreement, the employer must involve the relevant trade union in the consultation process.

Limiting the negative impact

Other than in relation to "vulnerable employees," there are no specific legislative requirements that prescribe what employers must do to limit the negative impact of a restructure. Where there is an asset sale, vulnerable employees have a right to transfer with the asset to the new employer.

Although there is no requirement to create a social plan, as part of the redundancy process, employers should consider whether the employee is capable of performing an alternative role (even if that may require the employee to upskill or is a 'demolition' from their current role) and, if so, offer that role to the employee. If the employee is deemed not suitable for the alternative position, the employer is not obliged to offer re-employment.

As part of the restructuring process, employers may offer access to personal counseling via an employee assistance program. Where a role is made redundant, employers may offer outplacement support e.g., curriculum vitae or resume preparation support, interview training, technical trainings or career advice.

Estimated timeline

While a straightforward redundancy process can be carried out over a two- or three-week period, the time required to undertake a proposal to restructure and to implement any consequent redundancies depends on the circumstances of the employer's business.

Timing will be influenced by:

- The number of redundancies contemplated
- Involvement of the trade unions
- Employment agreements having prescriptive redundancy consultation clauses
- Employee feedback, including suggestions that require further investigation, changes to the initial proposal and further consultation
- The employer's requirement for the employees to work out their notice period

Estimated costs

Unless there is a contractual entitlement, there is no requirement to make redundancy payments. All unused annual leave and other entitlements must be paid out.

Norway

Planning a workforce transformation project

A corporation considering workforce reductions must ensure a well-documented process in accordance with the legal requirements, including any requirements set out in the applicable Collective Bargaining Agreements.

Workforce reductions must be objectively justified on the basis of circumstances relating to the employer or the work itself. The law does not state or indicate, for example, what constitutes sound reasons sufficient to justify workforce reductions. This must be determined on a case-by-case basis.

Strict requirements concerning form and procedures must be followed. This includes mandatory information and consultation obligations. The requirements vary depending on the number of employees made redundant, but the main requirements apply regardless. Both the selection criteria applied to select affected employees, and the selection itself, must be objectively justified. The employees are also entitled to be offered any other suitable work available elsewhere in the organization.

Under Norwegian law, a collective redundancy is defined as a termination of 10 or more employees. In this situation, the employer must notify the Norwegian Labor and Welfare Administration.

Limiting the negative impact

An employer contemplating collective redundancies shall enter (at the earliest opportunity) into consultations with the employees' elected representatives with the aim of reaching an agreement to avoid collective redundancies or to reduce the number of employees being made redundant. This can be achieved by implementing measures, such as redeployment or retraining. If redundancies cannot be avoided, all efforts must be made to reduce their adverse effects.

Estimated timeline

The timeframe for a fair and thorough redundancy process, including a satisfactory information and consultation process with the employees' elected representatives, must be considered on a case-by-case basis. However, a fair and genuine information and consultation process often takes approximately three months.

Estimated costs

During the applicable notice period, all ordinary employment terms and conditions continue to apply. Accordingly, the cost for the dismissal is employees' salary and benefits throughout the notice period.

While there is no statutory right to severance pay in Norway, it is common for an employer to offer a redundant employee a severance package. Any severance agreement can be negotiated by the parties without being governed by mandatory law. However, the severance pay amount shall naturally correspond, at a minimum, to the remuneration the employee otherwise would be entitled to receive during their notice period.

Should there be a dispute as to whether the dismissal is lawful, the employee has the right to remain in their position until the court has delivered a final judgement. If the dismissal is deemed unlawful, the employee will be entitled to claim compensation.

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Paraguay

Planning a workforce transformation project

In Paraguay, there is no specific legal procedure or guidance in place for workforce transformation or restructuring projects. However, an employer must take into consideration the provisions established in the Paraguayan labor code about any decision that affects its workers or trade unions, including any relevant legal provision. Depending on the needs of the employer or the organization and the type of transformation or restructuring in question, the following scenarios should be considered:

- **Remote working:** Teleworking is a special type of employment relationship which became regulated in 2021. This mode applies to workers in a relationship of dependency on labor relations in both the public and private sectors. However, it is not mandatory. Among an employer's responsibilities is, under the teleworking law, to guarantee the social security and all benefits applicable to a 'normal' employment contract for teleworkers. The law recognizes the right of the employers to monitor employees while working and implement systems of control that are designed to protect the employers' goods and information. However, the employer must guarantee the privacy of the employee.
- **Modification of the employment contract:** The substantive conditions of an employment contract cannot be modified unilaterally by the employer. Employee consent is a critical part of any contract modification.
- **Termination of the employment contract by mutual consent:** In these circumstances, the employment contract terminates without liability accruing to either party. It must be formalized in the presence of a notary public or a representative from the Ministry of Labor. The resignation is made in the presence of two witnesses. The employer must proceed with the payment to the employee according to the law.
- **Termination of the employment contract unilaterally by the employer:** Where there has been an unfair dismissal, the employee has the right to receive the compensation established by law. The Paraguayan labor code provides that permanent workers may only terminate their employment contract in accordance with the circumstances established by law.
- **Through an administrative procedure, in cases of total closure of the organization or reduction of tasks:** This can be implemented with a prior written communication to the Ministry of Labor, which will provide an information summary to the employee before issuing the respective resolution.

In each of these circumstances, the employer must present a petition to the Ministry of Labor, initiating the closing or reduction procedure, indicating temporary and permanent workers will be affected, accompanied by the relevant documentation. The Ministry of Labor will summon the workers to be heard. It is the usual administrative practice to proceed to an inspection of the local offices or establishments. After the enabling resolution has been issued by the Ministry of Labor, the employment contracts should be terminated. For permanent workers, the compensation payable is equivalent to double the corresponding amount if the dismissal was deemed unjustified. Payment amounts vary according to the employee's seniority.

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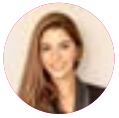

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Information and consultation obligations

Paraguay does not have specific procedures or guidelines to implement labor transformations or restructuring. The employer must take into consideration the provisions established in the Paraguayan labor code and in any relevant legal provision.

Limiting the negative impact

Employers can choose to implement transformation or restructuring plans from which workers can benefit. Employers are not required to establish a social plan while implementing a workforce transformation, although it is considered leading practice by the employer if the employees are facing significant internal transformation. In addition, it is essential to consider any specific legal provision contained in the Paraguayan labor code and any relevant legal provision. This especially helps while planning an implementation of a comprehensive plan that includes compliance with legal obligations, notifications, documentation, etc.

Estimated timeline

The estimated timeline varies depending on the type of changes the employer wants to apply. In some cases, the timeline may be extended if there is no consensus or if the workers or the organization decide to challenge the decision of the administrative authority before a court.

Estimated costs

The costs of implementing a workforce transformation or restructuring depends on the type of changes the employer wants to apply. The estimated costs also depend on:

- The size of the organization
- The number of workers included in the transformation or restructuring project
- Seniority
- Statutory severance or redundancy payments and applicable compensation
- Maternity privileges
- Trade union agreements
- Any mandatory procedure according to the labor code that must be observed, including any economic package of benefits that the organization decides to implement

Peru

Planning a workforce transformation project

In Peru, workforce transformation and restructuring projects can be implemented if the following criteria are met:

- Via early-retirement plans, usually accompanied by economic incentive packages for workers who voluntarily decide to take advantage of such a plan.
- Via an administrative procedure that requires the following:
  - A process of consultation with the affected employees
  - A consultation process with the relevant trade unions
  - Approval of the decision by the labor authority
  - Information and consultation obligations

If the employer decides to implement a transformation plan, Peruvian law imposes the obligation that if the employer's decision affects at least 10% of the total workers, it is then necessary to initiate a process of negotiation and consultation with the potentially affected employees and the trade unions to try and identify alternative measures to avoid the termination of contracts. Any decision reached during this process is binding on both parties.

In the absence of an agreement, the employer may submit a request for collective redundancies to the Peruvian labor authority. This request must be accompanied by an audit report that supports the decision of the plan that the organization wishes to implement.

In these cases, the implementation of the plan is authorized by the labor authority in Peru after reviewing the information presented by the employer or affected workers and their trade unions.

It is important for employers to remember that the Peruvian labor authority requires a special justification for any decision to terminate an employment contract when it affects trade union leaders.

Limiting the negative impact

Taking into consideration the difficulties involved in implementing a plan with the authorization of the labor authority in Peru, employers can choose to implement transformation plans from which workers may voluntarily benefit.

Thus, for example, it is common in Peru to grant an economic incentive to workers who decide to take advantage of the plan. These incentives are usually accompanied by extended health plans, the possibility of granting job relocation aid and other similar measures.

However, workers can request their reinstatement to the job after a dismissal. Hence, labor reduction plans always need the consent of the worker to obtain the termination of the worker's position.

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Estimated timeline

A workforce restructuring plan involving the Peruvian labor authority can take approximately six to eight months, from filing the application to obtaining a final response. This period may be extended if the affected workers or the employer decides to challenge the decision of the administrative authority before a court.

Estimated costs

The costs of implementing a workforce transformation plan may vary depending on the size of the organization, the number of workers affected by the measures and the amount allocated to an economic package of benefits or if the organization decides to implement other benefits, such as health plans or insurance plans.

The cost may also vary if the plan needs to be submitted to the Peruvian labor authority for approval. However, considering the Peruvian legislation, it is advisable for an employer to choose to offer a voluntary redundancy package.

Poland

Planning a workforce transformation project

The dynamics of the current economy require employers to respond to changes by transforming their workforce accordingly. It is critical that employers are aware of available measures for a workforce transformation and can use them in compliance with Polish labor law.

Under Polish law, an employer with at least 20 employees is bound by the regulations on collective and individual redundancies. Collective redundancies take place when the employer terminates a certain number of employment relationships within a period not exceeding 30 days. The following categories define collective redundancies:

- 10 employees to be made redundant, when the total number of employees is fewer than 100
- 10% of employees, when the total number of employees is between 100 and 300
- 30 employees, when the total number of employees is 300 or more

If the above-mentioned thresholds are met, the employer must follow a specific redundancy consultation procedure.

Employers may also decide to avoid a collective redundancy procedure by offering voluntary redundancy plans with attractive severance packages or by not renewing fixed-term contracts.

Employers should be aware that redundancies may affect its future options for filling the positions eliminated by recent downsizing. Polish law limits the possibility of fulfilling those needs by hiring temporary workers, as well as limits the freedom to choose a candidate in subsequent recruitment.

Information and consultation obligations

The plan to conduct collective redundancies triggers an obligation to consult with employee representatives, including trade unions or elected representatives.

As a result of the consultation, the employer executes an agreement with the trade unions or issues a regulation. It contains a set of transparent rules for conducting the collective redundancies and the entitlements of affected employees.

The employer must also inform the district employment office about the intended downsizing and about any executed agreement or regulations. If an employer intends to make at least 50 employees redundant over a three-month period, it must agree in advance with the labor office regarding the scope and forms of assistance to the affected workers.

Regardless of the applicability of the collective redundancy procedure, any employer planning a workforce transformation must also inform and consult regarding the potential changes with the works council (if it has been constituted).

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Limiting the negative impact

To limit the negative impact of the collective redundancies, employers can introduce measures, such as additional, voluntary financial severance packages, professional training programs or redeployment support. Their scope is left to the discretion of the employer and employee representatives.

Estimated timeline

The collective redundancies usually take approximately three to four months, including the consultation process as well as notice periods. The employer may reduce the notice period of three months to a maximum of one month. In such cases, the employee is entitled to compensation in the amount of remuneration for the remaining portion of the notice period.

Estimated costs

The main cost to be considered regarding collective redundancy is the value of the severance package. The statutory severance payment is calculated as follows:

- One month's remuneration if the employee has worked for the employer for less than two years
- Two months' remuneration if the employee has worked for the employer for between two and eight years
- Three months' remuneration if the employee has worked for the employer for over eight years

Portugal

Planning a workforce transformation project

Redundancies are highly complex and regulated procedures, where minor inconsistencies may lead to a ruling of invalid dismissal for lack of appropriate grounds or formal invalidities. Hence, good planning is essential for any workforce transformation project in Portugal. Workforce transformation usually involves a two-step approach. The first stage is an organizational offer for voluntary severance agreements, with improved conditions regarding minimum employee compensation under a collective redundancy. The subsequent second stage is the restructuring of the organization with the remaining employees.

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Since the applicable law leaves the offering of voluntary severance agreements mostly to the will of the parties, it is important to address the collective redundancy procedure in more detail.

Information and consultation obligations

At the outset, the employer shall notify, in writing, for information and consultation, the employee representative body in place (e.g., works council, inter-union committee or trade union committee). If no such body exists, the employer must contact each of the affected employees directly, who may then, within a five-day period, appoint an ad hoc committee of three or five employees who will represent the remaining employees in the subsequent negotiations. The employer's notice shall include the legal and economic justification for the collective redundancy, and an organization chart broken down by organizational structures, identifying the employees to be made redundant and the proposed compensation to be paid.

Limiting the negative impact

Following the initial legal justification, a negotiation with the works council or the trade unions is must take place with the participation of a representative from the Ministry of Labor. The purpose of the negotiation is to find alternative measures to the collective redundancy, including:

- The suspension of the employment agreements
- Reduction of normal working periods
- Professional training and reclassification
- Early retirement
- Any other measures that both the parties agree and that are legally permitted

Estimated timeline

Preparation for the procedures may take up to two months, depending on the complexity of the project.

The time required to fully implement a collective redundancy depends on the number of redundancies contemplated, as well as the years of service of the affected employees. The employment agreements only cease after the notice period following the final decision to lay off, and notice periods vary in accordance with the employees' years of service, ranging from 15 to 75 days.

The legal timeframe for the works council or the trade union's negotiation stage is not specified, but normally takes about one month.

Estimated costs

The key components of mandatory HR legal costs are:

- The payment in lieu of notices upon termination (e.g., if the employees are released from working during the notice period)
- Administrative costs (e.g., professional fees)
- Compensation to the affected employees

Employers should also note that minimum compensation is legally set at the value of 12 days of base remuneration per year of service. The government has indicated plans to soon increase this amount.

Spain

Planning a workforce transformation project

In an increasingly challenging and unpredictable economic context, and with the development of technology that can imply the amortization of certain jobs, several organizations are considering implementing a workforce transformation process with the aim of adapting their business to a new operating model.

Under this scenario, it is of key importance to assess and be aware of the mechanisms offered by the Spanish labor legislation governing workforce transformations or restructuring processes. Only by correctly understanding and implementing these mechanisms will organizations be able to ensure that the procedure is straightforward.

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In Spain, when a substantial reduction in the workforce is intended, a collective dismissal should be performed.

This process shall be followed when, within a 90-day period, the dismissal affects at least:

- 10 employees, in organizations employing fewer than 100 employees
- 10% of the total workforce, in organizations with between 100 and 300 employees
- 30 employees, organizations with more than 300 employees

This is, of course, provided there are grounds to justify the application of a collective redundancy process. Such grounds may be one of the following:

- Economic
- Technical
- Organizational
- Production-oriented

Information and consultation obligations

At the time of implementing a collective dismissal, there is a strict proceeding in which several requirements must be observed.

Initially, the organization shall inform the affected employees or their representatives of its intention to initiate the collective dismissal procedure in a reasonable manner, so that the the employees can constitute a representative committee to negotiate with the employer during the consultation period.

Next, the consultation period with the organization's employee representatives must be initiated. This consultation period will last between 15 and 30 days for organizations with fewer than 50 employees, and the objective is to discuss the grounds for the dismissal, the possibility to avoid or reduce its effects, and consider measures to mitigate its consequences for the affected employees.

Upon termination of the consultation period, the organization is obliged to communicate its result as well as the final content of the measures to be implemented to the labor authority and to the employee representatives.

Finally, the employer must communicate dismissals

to each employee individually. For a dismissal to be valid, at least 30 days must have elapsed between the date of the notification of the commencement of the consultation period to the labor authority and the date on which the dismissal takes effect.

Limiting the negative impact

Spanish labor law outlines several social measures to reduce the negative impact that the collective dismissal may have on affected employees. In addition, during the consultation period, the organization must negotiate in good faith and shall assess the possibility of avoiding or reducing the number of dismissals and mitigating their consequences.

The labor law provides that in the event of collective dismissals affecting more than 50 employees, the employer must offer the affected workers an outplacement plan via authorized outplacement companies. Further, if a collective dismissal includes workers aged 50 years or older, the company must make a financial contribution to the Public Treasury. In the same way, organizations have an obligation to conclude a special agreement with the Social Security body for those employees aged 55 years or over. These measures, however, are subject to certain specifications.

In addition to these measures that are compulsory under the law, organizations often implement voluntary measures. Some of these may relate to offering specific training, the possibility to redeploy affected employees within other organizations within the employer's group or the voluntary increase of the mandatory severance payment.

Estimated timeline

As indicated, the timelines established in the Spanish legislation vary depending on a number of factors, such as the size of the company and the number of employees. It could be considered that the ordinary average period for the preparation and negotiation of a collective dismissal would amount to around two or three months.

Estimated costs

Estimating the collective dismissal cost is a complex undertaking, given that there are several factors to be considered, such as the number of affected employees of the organization and their specific circumstances.

An organization intending to implement a collective dismissal procedure must take into account that employees are entitled to receive a compensation amount equivalent to 20 days per year of service, with a maximum of 12 monthly payments. As mentioned, this payment can be improved by agreement between the parties. In practical terms, during a negotiation, agreements between the parties are not usually reached with an agreed compensation of 20 days of salary per year of service, as the affected employees are aware that this is the amount to which they are legally entitled.

Costs arising from potential contributions to the special agreement with the social security system or contributions to the Public Treasury must also be considered.

Finally, costs arising from the social measures that the organization adopts should also be considered.

Sweden

Planning a workforce transformation project

In Sweden, provisions relevant to a workforce transformation process are governed by the Employment Protection Act (1982:80) as well as supporting regulations in the Co-Determination in the Workplace Act (1976:580).

Under Swedish law, employers have the right to organize (and reorganize) their business however they deem appropriate as long as the changes relate to economic or organizational reasons and are not discriminatory or contradictory to 'good practice' in the labor market. Thus, employers who wish to reduce their workforce may carry out a restructuring or reorganization, which would trigger a redundancy situation.

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Information and consultation obligations

Prior to deciding on significant changes to the business, such as a workforce transformation, employers who are bound by a Collective Bargaining Agreement (CBA) must consult regarding the contemplated changes with the affected employees' trade unions. If an employer is not bound by a CBA, the consultation obligation still exists in relation to trade unions represented among employees at the affected workplace.

Employers must consult with affected trade unions prior to finalizing any organizational changes. In light of this, it is important that any communications relating to the transformation project be phrased as "contemplated," "proposed" or similar until the trade union consultations have been concluded.

The obligation is simply to consult and not to agree. Ultimately, the decision lies with the employer.

There is no legal definition of the term "collective redundancy", and the procedure will be the same regardless of whether one or 100 employees are being made redundant. However, if five or more employees are being made redundant, a notification must be made to the Swedish Public Employment Service.

Limiting the negative impact

Employers should be aware that they are not entirely free to choose which employees to dismiss and that certain obligations or processes must be followed prior to dismissing employees due to redundancy.

Prior to any dismissals due to redundancy reasons, the employer must assess whether an employee can be deployed to a vacant position within the legal entity, subject to having "sufficient qualifications." Such assessments should be documented in writing.

An employee having sufficient qualifications for a certain position does not necessarily mean the same thing as the employee being the best candidate for a particular position (compared to other candidates). Basic skills for the role are considered sufficient. Further, the employer must support a training period of up to six months in such cases.

If there is no vacancy to offer or if the employee lacks sufficient qualifications for any vacant position, the employer must follow a dismissal order based on a seniority list. This principle, which is essentially "last in, first out," means that affected employees must be offered another position within the same operational unit if the position is held by someone with a shorter

length of service. This is also subject to the employee having sufficient qualifications for such a position.

In the event of termination due to redundancy, an employer may exclude up to three employees from the seniority list by designating that they are of special importance to the future business. Essentially, these employees will then be protected from redundancy. If an employer exercises this exemption, no further exemptions from the "last in, first out" principle may be made in redundancy terminations occurring within three months of the first termination.

It should also be noted that employees who have been dismissed due to redundancy may have a priority of re-employment throughout their notice period and for nine months after their last day of employment.

There is no legal obligation for an employer to pay severance in Sweden. However, in workforce transformation projects resulting in redundancies, it is not uncommon for employers to offer their employees some form of severance pay. The exact amounts will vary depending on the circumstances.

Estimated timeline

The estimated timeline of a workforce transformation project is highly dependent on the circumstances and the complexity of the planned changes. For workforce transformation projects that are smaller scale and more straightforward, it is common for the consultation process with the trade union(s) to be finalized within four to six weeks. While for larger and more complex cases, the estimated timeline is prolonged.

The employer's obligation to provide notice to the Swedish Public Employment Service (if any), will usually delay the process further, since the notification period varies from two to six months depending on the number of employees impacted.

Estimated costs

As with the estimated timeline, costs associated with a workforce transformation may vary based on the circumstances (e.g., the size of the organization, the number of affected employees, payments due to employees upon redundancy etc.

Further, most CBAs provide insurance coverage that include outplacement assistance and career support, as well as some financial compensation.

Switzerland

Planning and implementing a workforce transformation project

As a result of various challenges currently influencing the working world, organizations are increasingly dealing with workforce transformations. Especially, in cases where restructuring lead to dismissals, prior planning is essential, as the principle of freedom of (ordinary) dismissal prevailing in Switzerland may be restricted, both in the context of individual dismissals and in the context of collective redundancies. To comply with statutory obligations regarding collective redundancies, relevant documentation must usually be prepared in advance, which often takes at least two to four weeks. If an employer does not comply with statutory and contractual obligations (if any in addition), the dismissal will generally remain valid. Non-compliance can result in compensation payments of up to six months' salary for each employee concerned or affect planned transactions (e.g., mergers, spin-offs, asset deals or transfers of businesses).

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Information and consultation obligations

In addition to obligations that may arise from Collective Bargaining Agreements (if applicable), statutory obligations must be considered in the context of collective redundancies.

Collective redundancies are defined as redundancies of:

- at least 10 employees, in a business normally employing between 21 and 99 employees
- at least 10% of the employees, in a business normally employing between 100 and 299 employees
- at least 30 employees, in a business normally employing 300 or more workers

The redundancies must be implemented by notice of termination by the employer for reasons not pertaining to the employees personally and occur within a period of 30 consecutive calendar days.

Even though employees, employee representatives and labor authorities do not have direct decision-making powers or veto rights, an employer intending to perform a collective redundancy must comply with statutory information and consultation obligations to employee representatives or, if there aren't any representatives, directly to the affected employees, and inform the competent cantonal labor authorities. This process includes provision of written information offsetting out the intention to make redundancies and the result of the consultation with the labor authorities, letting the employees formulate recommendations on how to avoid or reduce such redundancies and how to mitigate their consequences.

Limiting the negative impact

If at least 30 employees are affected by the collective redundancy in an organization that regularly employs more than 250, the employer has an obligation to negotiate a social plan with the trade union (where there is an applicable Collective Bargaining Agreement), the employees' representatives, or directly with the affected employees. A social plan typically includes severance payments, outplacement assistance and further measures that aim to limit the negative impact of redundancies. The measures may

vary depending on the circumstances and the size of the company.

Even if the statutory threshold is not reached, a social plan can be worked out on a voluntary basis. Instead of a social plan, leave or retention packages are often developed, which may also include severance payments, and outplacement measures. Within the framework of such leave or retention packages, measures, can be agreed such as:

- garden leave during the notice period
- the extension or reduction of the notice period
- the elimination of an extension of the employment relationship where there is an applicable statutory exception (e.g., incapacity to work due to accident or illness)
- retention bonus payment

In addition, special (hardship) cases, such as the dismissal of elderly employees, the dismissal of employees with family obligations, etc., can be considered in the framework of such leave packages.

Estimated timeline

Assuming that all affected employment relationships can be terminated with an average notice period of three months which can be reduced to one month, implementing a collective redundancy normally takes up to five months. For longer contractual notice periods, more time is needed. Negotiation of a social plan will result in a larger time commitment.

Even if not explicitly regulated by law, sufficient time must be considered for each step. Ideally, for example, three to four weeks should be allowed for the entire consultation process, starting with the provision of information to employees' representatives or employees, and ending with the communication of the evaluation of the received recommendations and proposals.

Estimated costs

Estimated costs are a combination of internal and external costs, such as administrative costs, increased human resource management efforts and advisors' fees. The latter depends on the circumstances, including the organization's size, and whether collective redundancies lead to mandatory and customary additional costs.

Mandatory costs include salaries (inclusive of fringe benefits) during the notice period as well as payment of accrued annual leave, overtime, contractual bonuses and other benefits as contractually agreed. Customary additional costs include severance payments, under outplacement measures or similar as provided for under a (voluntarily-negotiated or mandatory) social plan or agreement negotiated with affected employees.

Turkey

Planning a workforce transformation project

According to the Turkish Labor Law and the relevant case law, termination of the employment relationship should be the last resort, and if it is inevitable, the employer must seek alternative options, such as offering another position to the affected employee.

Nevertheless, the procedures to be followed for dismissal and collective redundancy are mostly dictated by the Supreme Court precedents, along with the labor law, and must be strictly followed to avoid an invalid dismissal.

For example, if the employer decides to decrease the number of employees, the employer must provide a severance payment unless the dismissal is due to just cause.

As a result, it is recommended that every aspect and case must be examined to determine the best plan in the circumstances.

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Information and consultation obligations

Approval of the labor authorities or other government authorities is not required to implement a collective redundancy.

However, according to the labor law, when an employer contemplates a collective redundancy based on economic, technical, or organizational reasons the changes affect the enterprise, workplace and nature of the work performed and if the number of employees to be made redundant and the total number of employees are within the limits prescribed under the labor law.

The employer is legally required to submit a written notification to the relevant Regional Directorate of Labor, the Public Employment Office (İŞKUR) and the relevant trade union representatives. The latter is required (at least 30 days prior to the intended redundancies) if an authorized trade union exists at the workplace.

A redundancy shall be deemed as a collective redundancy in the following scenarios:

- A minimum of 10 employees being dismissed, in organizations employing between 20 to and 100 employees
- A minimum of 10% of employees, being dismissed, in organizations employing between 101 and 300 employees
- A minimum of 30 employees being dismissed, in organizations employing 301 or more employees

To fulfil the criteria, the employees should be made redundant on the same date or within one month.

The written communication must include the reason for the contemplated layoff, the number of affected employees, and groups to be affected by the layoff. It should also include the expected length of time and the procedure for the terminations.

Following the notification, consultations with trade union representatives typically take place to discuss the measures to be taken to avoid or reduce the number of terminations, as well as measures to mitigate or minimize the adverse effects on the employees involved. At the conclusion of the meeting, a document demonstrating that the aforementioned consultations were held must be drafted.

If the entire organization is to be closed, the employer must notify the Regional Directorate of Labor and the Public Employment Office at least 30 days in advance of the intended closure and after the relevant internal announcement at the organization.

Limiting the negative impact

Local labor law does not contemplate the need for a social plan to be implemented as part of a workforce transformation. On the other hand, Supreme Court precedents clearly state that termination shall be the option of last resort.

However, as previously stated, for a transformation that qualifies as a collective redundancy, it requires a notification to the relevant Regional Directorate of Labor, the Public Employment Office (İŞKUR) and the trade union representatives. The latter is only required if an authorized trade union exists at the workplace and a Collective Bargaining Agreement is in force. Discussions should cover the subjects of averting or reducing the number of terminations as well as mitigating the adverse effects of the termination on the affected employees and this process must be documented.

Estimated timeline

The timeline differs depending on various facts, including:

- Whether the redundancy shall be considered a collective redundancy or not, the criteria for which is set out above
- Whether a Collective Bargaining Agreement is in force in the workplace
- Whether the employees benefit from job security

It should be noted that the timeline for each case will vary, and all legal obligations and requirements will differ. However, the planning phase is estimated to take between two and six weeks and the execution phase (with notice periods considered) is estimated to take between two and fourteen weeks, depending on the above-mentioned criteria.

Estimated costs

For employees who are not offered another position within the workplace or any alternative work arrangements and are to be dismissed, they shall be entitled to the following payments:

- A severance payment corresponding to 30 days' salary for each year of employment
- Payment in lieu of notice for immediate termination, equivalent to the amount of salary corresponding to the applicable notice period. The usual notice period is between two and eight weeks, depending on the employee's seniority
- Payment for unused annual leave or extra hours, additional benefits, or bonuses (if any)
- Any other applicable contractual compensation

As an alternative to terminating the employment agreement on non-confrontational grounds without following standard termination procedures, a mutual rescission agreement may be considered as an option. This applies in the circumstances where the affected employee and the employer come to a mutual agreement upon regarding the termination.

Nevertheless, since the agreement is eliminating the statutory benefits of termination otherwise granted to the employee by default, the mutual rescission agreement must contain an extra benefit scheme for the employee. In practice, an employer provides bonus salary payments, in addition to the employee's severance and notice pay entitlements to fulfil the 'extra benefit' criteria. There is case law in Turkey to confirm that if the offer to terminate the employment is made by the employer, at least four months' gross salary is added to the amount paid to the employee, in addition to the employment package to which the affected employee is entitled.

Planning a workforce transformation project

Employers should carefully consider the implications of a workforce transformation project in the United Arab Emirates (UAE) before implementing any changes. This article considers the employer's obligations under the UAE Federal Decree by Law no. 33 of 2021, together, regulating labor relations and its Executive Regulations (UAE federal labor law). UAE federal labor law governs employment relations in the UAE mainland and in local Free Zones, which do not have their own employment regulations.

The permissible reasons for terminating employees are set out quite narrowly under the UAE federal labor law, which does not explicitly include reasons such as redundancy.

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Workplace transformations can be triggered for various reasons. Certain job roles or functions may become redundant due to mergers or corporate reorganizations. An employer may also need to downsize its business due to being adversely impacted by economic conditions. The UAE federal labor law did not, historically, recognize the concept of redundancy. Under the previous federal labor law, an employee could only be terminated for reasons such as gross misconduct or underperformance (a reason related to their work). If an employee was terminated for redundancy or restructuring, the employee could usually raise a successful complaint for unfair dismissal at the labor department or in the UAE courts and receive three months salary as compensation for such invalid termination, in addition to their termination notice pay, accrued leave payment and end-of-service benefits.

Under the most recent update to the UAE federal labor law, which came into effect in February 2022, an employee may be terminated by the employer if the employer's business is in distress. However, the grounds for terminating employees in such circumstances are drafted narrowly under the new law. An employer may only terminate an employee on the basis of redundancy or "restructuring" if the company is bankrupt or insolvent or there are exceptional or economic reasons that prevent the continuation of the business (Article 42(8) of the Law). In addition, it is not sufficient for the employer to simply inform the employee that there are economic reasons for making them redundant. The employer is only permitted to make redundancies if it is subject to a court judgment declaring its bankruptcy or insolvency, or a decision from the authorities confirming the employer's inability to resume business (Article 25, Executive Regulations).

Therefore, should an employer seek to terminate an employee in circumstances other than those permitted under the law, it could potentially be exposing itself to the risk of labor claims. Should the UAE courts issue a judgment in favor of the employee stating that the termination was unfair or unlawful, the employee would be entitled to compensation equivalent to three months' salary (Article 47(2)), which the employer would need to pay in addition to the employee's termination notice pay or pay in lieu of notice, accrued untaken annual leave payment and end-of-service benefits.

Information and consultation obligations

Trade unions are not permitted in the UAE. There are no specific procedures requiring employers to consult with trade unions before making large-scale redundancies. There is also no statutory requirement to consult with affected employees before making redundancies (although note the above discussion regarding the narrow circumstances where redundancies are considered valid).

Limiting the negative impact

In the UAE, workforce restructuring and implementation of redundancies can only be undertaken in very limited circumstances (i.e., when the UAE courts declare that the employer is bankrupt or insolvent or a government authority confirms its inability to resume business). Therefore, it is clear that in such circumstances, there would be no practical possibility of redeploying the employees. UAE federal labor law contains robust provisions to protect workers from being made redundant for insubstantial and unsupported reasons, which could have a detrimental impact on society at large.

If an employer still wishes to proceed with making redundancies, in circumstances that are not contemplated by the law, it should consider making a compensation payment to each employee, i.e., equivalent to the compensation they would receive through the courts (i.e., three months' pay in addition to notice pay, accrued annual leave payment and end-of-service benefits) to mitigate the risk of potential labor claims. Labor claims can cause business interruption issues as well as reputational damage for the employer and are best avoided.

Estimated timeline

Since employers are only permitted to make redundancies in very narrow circumstances, there is no requirement for consultations with employees and trade unions prior to making redundancies. There is also no fixed timeframe for such consultations and implementation of redundancies.

Estimated costs

The costs to the business of implementing employee restructuring or redundancies can be quite high in the UAE if the arrangements being proposed by the employer are not contemplated by the UAE federal labor law. If the employer wishes to mitigate the risk of a labor claim, it would need to pay the employee compensation equivalent to three months' salary in addition to their notice pay or pay in lieu of notice, compensation for accrued untaken annual leave and end-of-service benefits.

Ukraine

Planning a workforce transformation project

While planning a workforce transformation project, it is crucial to understand what regulatory framework and company regulations would apply. It is also essential to develop a detailed project plan that includes topics such as:

- Economic context
- Social impact on workers and communities
- Employee selection criteria
- Consultation and grievance mechanisms
- Project budget

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Information and consultation obligations

Formally, there is no requirement to provide legal justification for a redundancy. In general, the only ground for a collective redundancy is the changes in production or labor organization. This notion includes reorganizations as recognized by the international practice.

Trade unions

An employer should indicate a reason for a collective redundancy in a notice provided to the trade union and consult with the trade union on a set of appropriate measures. These could help minimize the redundancy and its negative effects. An employer should notify the trade union at least three months prior to a planned redundancy date.

Termination of employment relations with an employee on the grounds of redundancy may be done only with the prior consent of a primary trade union of which the affected employee is a member. However, temporarily, for the current period of martial law in Ukraine, employment relations with an employee could be terminated on the ground of redundancy without the prior consent of a primary trade union organization (with certain exceptions).

Employees

There is no legal requirement to consult with employees prior to execution of collective redundancies. However, an employer must notify each affected employee at least two months prior to the redundancy.

State authorities

No approval from the labor authorities is required to implement a personnel downsizing. However, an employer is required to notify the State Employment Service of Ukraine two months prior to a collective redundancy.

Limiting the negative impact

Together with the notice of dismissal, an employer is required to offer the affected employees vacant positions at the given legal entity. If there are no vacant positions for the respective profession or specialty, or if an employee refuses to redeploy to another position at the given legal entity, an employee at their own discretion may apply for job search assistance to the State Employment Service.

An employer, together with a trade union, may develop additional measures to support affected employees, including:

- Additional support payments
- Sponsoring retraining
- Outplacement support

Estimated timeline

A timeline for the redundancy is approximately six to nine months, depending on the scale of dismissals and employer's circumstances, including the alternative measures to reduce the negative impact.

Estimated costs

The key components of mandatory costs are:

- Salary paid during the two months' notice period
- Severance payment in the amount of an employee's average monthly salary (or as otherwise specified in any applicable Collective Bargaining Agreement)
- Payment for unused annual leave

Additional costs could be triggered by actions to avoid the redundancy that may be agreed upon during the consultations with trade unions.

United Kingdom

Planning and implementing a workforce transformation project

In the UK, employers are permitted to reduce headcount when there is a reduction in the need for employees. However, employers must be mindful of the UK employment rights, including unfair dismissal rights and collective redundancy obligations.

Employers must provide justifiable reasons for the proposed dismissals, such as a business closure or a reduced requirement for work. Redundancy is a potentially fair reason for dismissal, but a reasonable process must also be followed where employees have two years or more of service.

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An employee's dismissal will be automatically unfair if they are selected for redundancy on certain grounds, including pregnancy and maternity leave or their status as an employee representative.

Information and consultation obligations

Consultation obligations apply in all redundancy processes regardless of the number of affected employees. Collective redundancy obligations apply when an employer proposes to dismiss 20 or more employees as redundant within a period of up to 90 days at one establishment.

When carrying out large-scale redundancies, the employer must consult with employee representatives. These can be representatives of a recognized trade union or employee representatives (either appointed specifically for the redundancy process or existing representatives).

Further, the Department for Business, Energy and Industrial Strategy (BEIS) must be notified. Failure to notify BEIS is a criminal offense.

Certain prescribed information must be provided to employee representatives in writing. It will be necessary to agree with the representatives on the process to be adopted.

Employers are also still required to consult with affected employees on an individual basis to explain among other things, the rationale for the redundancy, selection criteria and any alternatives to redundancy.

Limiting the negative impact

A collective consultation must be undertaken in good faith with a view to reaching an agreement on ways to avoid dismissals and mitigate their consequences.

Further, employers must search for and consider alternatives to redundancy within their organization throughout the process. This also includes by identifying vacancies within their organization or other alternatives such as short-time working or reducing pay.

Estimated timeline

In all cases, consultation must begin at a "good time." There is no prescribed legal timeline for the individual redundancy process, which only needs to be reasonable within the circumstances.

For a collective redundancy process where 20 or more redundancies are proposed, consultation must begin at least 30 days before the first dismissal takes effect. For 100 or more redundancies, the timeframe increases to at least 45 days.

Estimated costs

Employees with two years or more of service who are dismissed by reason of redundancy are entitled the statutory redundancy pay. Obligation to comply with the collective redundancy consultation, obligation, risks "protective" awards of up to 90 days gross pay for each dismissed employee. The employer having to pay employees may also seek to claim unfair dismissal which, if successful, can result in the employer having to pay compensation for loss of employment.

Uruguay

Planning a workforce transformation project

Uruguay does not have specific legislation dealing with matters related to workforce transformation. Therefore, the steps to be taken shall be determined by the organization's needs and consideration of Uruguayan labor legislation.

Depending on the type of transformation, the organization must comply with certain specific obligations. The first step involves identifying the needs of each organization and the changes to be performed.

For example, current workforce transformation projects are largely driven by the shift to a remote working emerging because of the COVID-19 pandemic. To regulate this emerging reality, Uruguay issued Law No. 19,978 and Decree No. 86/022. The law defines "teleworking," and the rights, and obligations of both the "teleworker" and the employer and the procedure to be followed when the organization adopts this working mode. This is applicable while transforming existing traditional labor contracts or when hiring new employees under a remote working format.

If an employer is required to reduce the number of employees, for example, because of increased automation in the workplace, it should be taken into consideration that Uruguay has strong employee protection laws. These confirm that, although the organization has the freedom to dismiss its employees without cause, all dismissed employees shall receive an employee's severance payment (except when the dismissal is due to an employees gross misconduct).

In addition, if the company wishes to modify the employees' contracts to the detriment of their rights, a novation agreement shall be required, and the employee will be entitled to receive compensation for any loss of income or reduction of agreed (or acquired) benefits.

However, a workforce transformation is broader than the alternatives detailed above and should be comprehensive. It may consist of operating model changes, upgrades in employee experiences, coaching and leadership, talent planning, retention and sourcing.

These aspects are not regulated and therefore not limited in how the organization may choose to implement any modifications in these areas. Employers are advised to conduct a case-by-case analysis to determine the best plan for their organization.

Information and consultation obligations

As mentioned earlier, Uruguay does not have specific procedures or guidance to implement workforce transformations. Therefore, the organizations are not required to perform compulsory consultations with their workers or trade unions.

Nevertheless, trade unions in Uruguay hold a considerable amount of power, which is used potential to protect the employees' rights and object to any potential changes that trade unions might regard as negative for the workforce. They are usually part of the negotiation process, informing the Labor Ministry when necessary. This helps ensure the legality of the process without prejudice to other collective conflict remedies.

Notwithstanding the above, trade unions, work councils and other employee representatives do not have decision-making powers in internal organizational changes made by oganizations, but prior consultation or discussion with them is recommended.

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Although the Labor Ministry is not a direct participant in a workforce change, depending on the transformation, organizations would benefit from notifying to it, consulting or even offering financial collateral (e.g., when a high number of layoffs are expected) to show good faith in their proceedings. During this process, the organization could become more prone to undergoing statutory audits or inspections to ensure compliance with labor laws and regulations.

Limiting the negative impact

The employer is not required to put a social plan in place or notify the Labor Ministry or other authorities while carrying out place a workforce transformation. This is not required by labor laws and regulations, although it is considered good practice to do so when there is a significant internal transformation.

The state, through its Social Security Authority, shall provide pensions or unemployment benefits for laid-off employees as applicable.

Estimated timeline

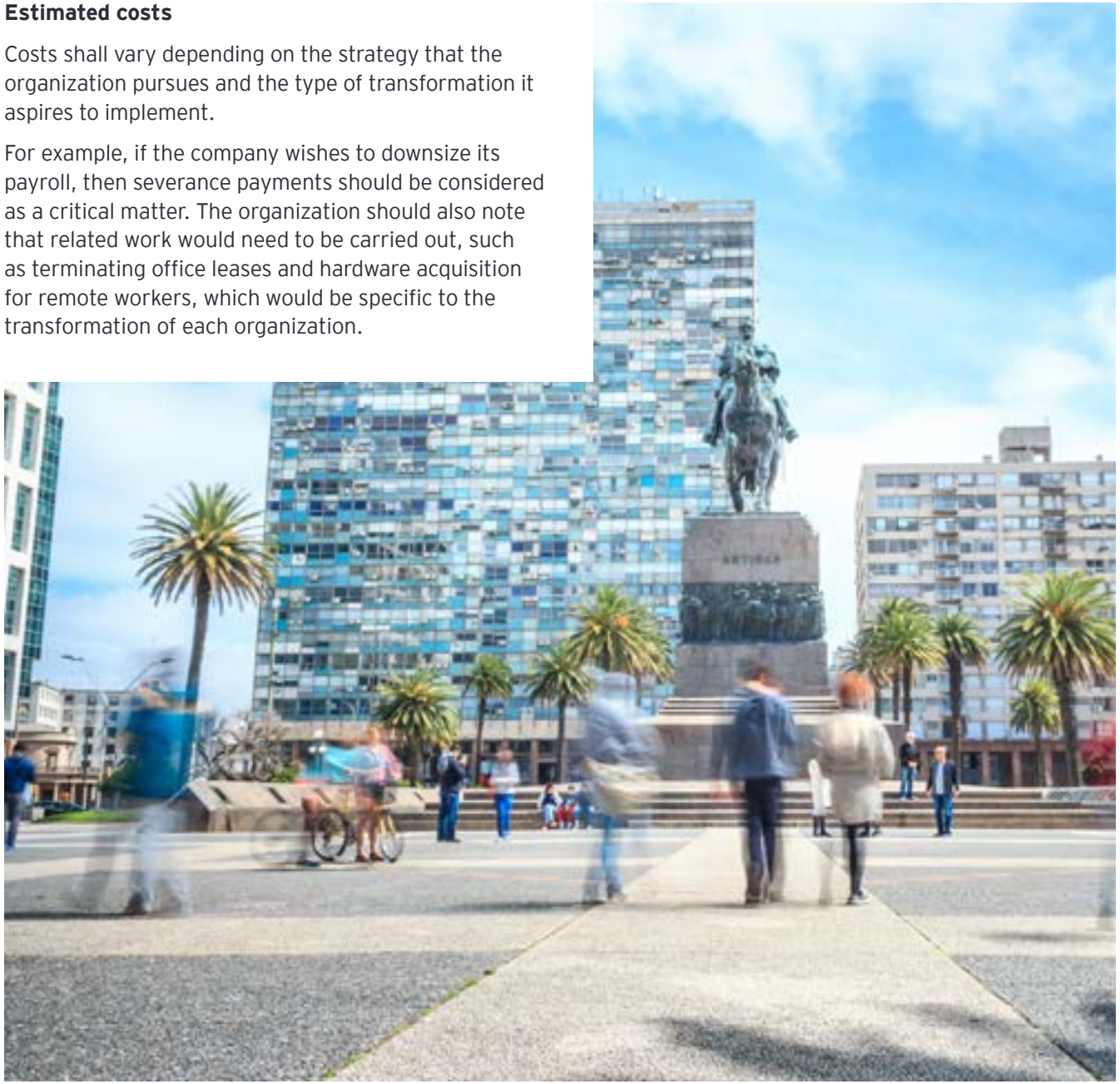
The estimated timeline shall vary depending on the type of changes the organization wishes to achieve. Considering that no authorizations or notifications are required, the planning and implementation could be performed within approximately three to four months.

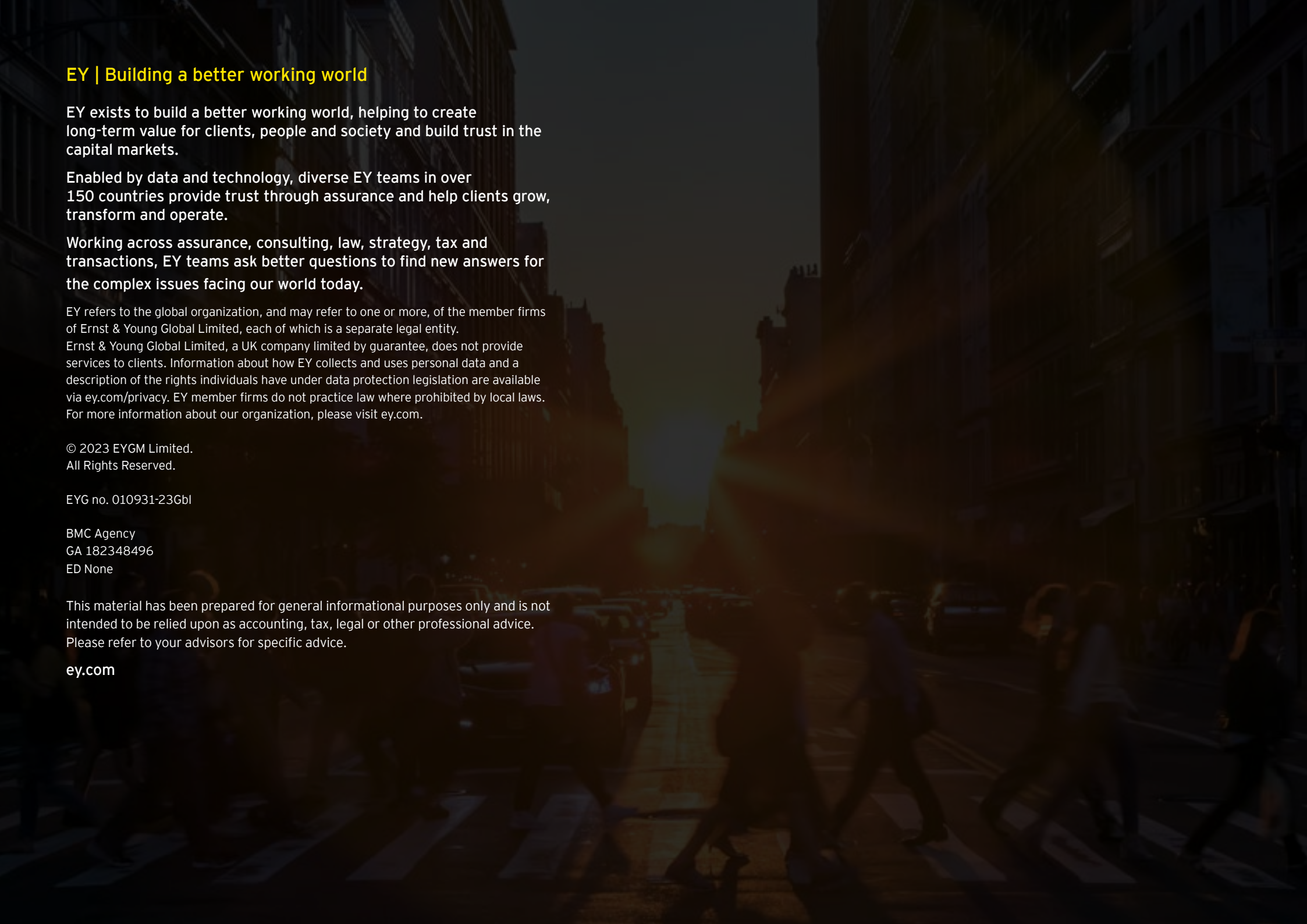
This timeline would include the planning and discussion of the implementation of the changes, their implications, preparation of required documentation and execution.

Estimated costs

Costs shall vary depending on the strategy that the organization pursues and the type of transformation it aspires to implement.

For example, if the company wishes to downsize its payroll, then severance payments should be considered as a critical matter. The organization should also note that related work would need to be carried out, such as terminating office leases and hardware acquisition for remote workers, which would be specific to the transformation of each organization.





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