

Council Directive 98/59/EC of 20 July 1998 on the approximation
of the laws of the Member States relating to collective redundancies

COUNCIL DIRECTIVE 98/59/EC

of 20 July 1998

on the approximation of the laws of the Member
States relating to collective redundancies

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

- (1) Whereas for reasons of clarity and rationality Council Directive 75/129/EEC of 17 February 1975 on the approximation of the laws of the Member States relating to collective redundancies⁽³⁾ should be consolidated;
- (2) Whereas it is important that greater protection should be afforded to workers in the event of collective redundancies while taking into account the need for balanced economic and social development within the Community;
- (3) Whereas, despite increasing convergence, differences still remain between the provisions in force in the Member States concerning the practical arrangements and procedures for such redundancies and the measures designed to alleviate the consequences of redundancy for workers;
- (4) Whereas these differences can have a direct effect on the functioning of the internal market;
- (5) Whereas the Council resolution of 21 January 1974 concerning a social action programme⁽⁴⁾ made provision for a directive on the approximation of Member States' legislation on collective redundancies;
- (6) Whereas the Community Charter of the fundamental social rights of workers, adopted at the European Council meeting held in Strasbourg on 9 December 1989 by the Heads of State or Government of 11 Member States, states,
inter alia
, in point 7, first paragraph, first sentence, and second paragraph; in point 17, first paragraph; and in point 18, third indent:
 7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community (...).

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

(...)

17. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

(...)

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

(—...)

(—...)

— in cases of collective redundancy procedures;

(— ...);

- (7) Whereas this approximation must therefore be promoted while the improvement is being maintained within the meaning of Article 117 of the Treaty;
- (8) Whereas, in order to calculate the number of redundancies provided for in the definition of collective redundancies within the meaning of this Directive, other forms of termination of employment contracts on the initiative of the employer should be equated to redundancies, provided that there are at least five redundancies;
- (9) Whereas it should be stipulated that this Directive applies in principle also to collective redundancies resulting where the establishment's activities are terminated as a result of a judicial decision;
- (10) Whereas the Member States should be given the option of stipulating that workers' representatives may call on experts on grounds of the technical complexity of the matters which are likely to be the subject of the informing and consulting;
- (11) Whereas it is necessary to ensure that employers' obligations as regards information, consultation and notification apply independently of whether the decision on collective redundancies emanates from the employer or from an undertaking which controls that employer;
- (12) Whereas Member States should ensure that workers' representatives and/or workers have at their disposal administrative and/or judicial procedures in order to ensure that the obligations laid down in this Directive are fulfilled;
- (13) Whereas this Directive must not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex I, Part B,

HAS ADOPTED THIS DIRECTIVE:

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (1) OJ C 210, 6.7.1998.
- (2) OJ C 158, 26.5.1997, p. 11.
- (3) OJ L 48, 22.2.1975, p. 29. Directive as amended by Directive 92/56/EEC (OJ L 245, 26.8.1992, p. 3).
- (4) OJ C 13, 12.2.1974, p. 1.