
France

Transfer of Business

Trigger point	<p>In the event of a Transfer of a Business, the contracts of employment of employees who are assigned to the transferring business will be automatically transferred to the Transferee.</p>
Obligations	<p>If the Transferor or the Transferee has a Social and Economic Committee in place, it must be informed and consulted with prior to any definitive decision being made on the transfer and before any binding agreement is signed, such as a business transfer agreement.</p> <p>The Social and Economic Committee's opinion must be obtained within the legally prescribed deadlines (unless in-house regulations provide for different consultation deadlines) and it will give its opinion subject to having received all necessary information on the transfer, and the impact on employment and the environment.</p> <p>If the Transfer of Business qualifies as a "sale of goodwill" and the Transferor meets specific headcount and turnover criteria, the Transferor must inform its employees directly, to give them the opportunity to make an offer on such goodwill should they wish so.</p> <p>This obligation is informational only; there is no obligation on the Transferor to accept, or even acknowledge, offers made by employees.</p>
Timing	<p>In the absence of in-house regulations providing for specific consultation deadlines, the deadline for the Social and Economic Committee to give its opinion currently ranges between one and three months depending on the consequences on employment or the environment, and whether experts are appointed to review the Transfer of a Business.</p> <p>In the event that the Transfer of Business qualifies as a "sale of goodwill", the process of informing the employees and providing them with an opportunity to make an offer should:</p> <ul style="list-style-type: none">(i) last no longer than two months prior to the sale; or(ii) if a Social and Economic Committee exists, occur at the same time as, and for the same period as, the consultation with the Social and Economic Committee.
Representatives	<p>If the Transferor or Transferee has a Social and Economic Committee, it must be informed and consulted with.</p>

Information/Notification	<p>The Social and Economic Committee must be provided (in advance of or, at the latest, during the first meeting) with an information note (known as the “economic note”) setting out all information needed for the Social and Economic Committee to give its opinion, including:</p> <ul style="list-style-type: none"> (i) the business and economic rationale for the Transfer of a Business; (ii) information on the Transferee and its strategy in acquiring the business; and (iii) a description of the legal conditions of the Transfer of a Business and its consequences, in particular, on employment (individual and collective status) and the environment.
Consultation	<p>If the Transferor or the Transferee has a Social and Economic Committee, it must be informed and consulted with prior to any definitive decision being made on the transfer, such as the signing of a business transfer agreement.</p>
Veto rights	<p>The Social and Economic Committee cannot prevent the Transfer of a Business from proceeding but it can delay the process by a couple of weeks in the event it has not received complete information on the contemplated Transfer of a Business.</p>
Penalties	<p>Failure to consult with the Social and Economic Committee before a decision is made on a Transfer of a Business is a criminal offence with the potential for a criminal fine for the corporate entity itself and/or the corporate officers of €37,500 and €7,500 respectively (rates applicable to a first offence).</p>
Other	<p>The Transferor and/or Transferee must comply with any additional process prescribed in any applicable CBA or in-house regulations.</p> <p>The information provided to employee representatives and employees should be in French.</p> <p>Specific rules apply to the transfer of staff representative members in the case of a partial Transfer of a Business, in which case, prior authorization from the local labor administration is required.</p>
Impact of a Share Sale	<p>The same process will apply on a Share Sale.</p>
Intra-Group Transfers	<p>The same requirements apply in the event of an Intra-Group Transfer.</p>

France

Redundancies

Collective Redundancies

Threshold

A statutory collective redundancy process will be triggered where an employer contemplates making more than one employee redundant over a 30-day period.

The obligations differ depending on the company's headcount, the number of contemplated redundancies, and the number of employees and the employee representation in place.

Obligations

The employer must inform and consult with the Social and Economic Committee (if any) and provide detailed information on the proposed redundancies (including the economic rationale and any impact on employment).

Where the contemplated redundancies concern less than ten employees, or in the absence of a Social and Economic Committee, employers must invite all employees to pre-redundancy meetings.

Where an employer has at least 50 employees and contemplates making redundant at least ten employees over a 30-day period, the employer must implement the following procedure:

- (i) inform and consult with the Social and Economic Committee on the contemplated restructuring and redundancies, including the economic rationale and the consequences on employment and the environment (the "**Redundancy Project**"); and
- (ii) negotiate a collective redundancy plan (including details as to how to minimize the impact of the redundancies) with the Trade Unions (the "**Redundancy Plan**").

In any redundancy procedure, the labor administration must be informed and, in particular, when a Redundancy Plan is required, the labor administration must be continuously informed throughout the information and consultation process, as it must validate the Redundancy Plan at the end of the process.

Redundancies can be validly made after applying selection criteria provided by law and/or the CBA (e.g., based on the number of the employee's dependents, length of service, professional qualities and ability to redeploy) and provided: (i) the employees have enjoyed all adaptation and training measures required to improve their employability, and (ii) the employer has complied with the legal obligation to propose adjusted internal redeployment opportunities, including job opportunities within other subsidiaries of the same group in France.

Timing

Where a Redundancy Plan is not required, a collective redundancy process can be carried out in one or two months.

Where a Redundancy Plan is required, the Social and Economic Committee will generally hold several meetings and appoint an expert to review the validity of the economic rationale, to suggest alternative solutions and to assist the Trade Unions in negotiating the Redundancy Plan. This process can take two months (where less than 100 redundancies are contemplated), three months (if more than 100, but less than 250, redundancies are contemplated) or four months (if more than 250 redundancies are contemplated).

The timing and modalities of the consultation may be adapted by a method agreement concluded by the employer with the Trade Unions.

Representatives

The requirement is to inform and consult with the Social and Economic Committee before any definitive decision is made, thus allowing the employer to consider possible alternative solutions suggested by the Social and Economic Committee.

Information/Notifications

There are two main notifications:

- (i) **Notification to Social and Economic Committee:** Generally, the Social and Economic Committee must be notified of the following in writing and, at the latest, during the first meeting:
 - (a) the economic rationale behind the Redundancy Project (if one is required) and details on the implementation measures; and
 - (b) the redundancy details (including, in particular, the estimated number of redundancies, the proposed timetable for the redundancies and a list of the measures proposed by the employer to minimize the impact of the redundancies).
- (ii) **Information to local labor administration:** The local labor administration must be provided with the same information as the existing employee representatives within specific deadlines.

Where a Redundancy Plan is required, it must be in the form of either:

- (i) a collective agreement signed with the Trade Unions and validated by the administration authority; or
- (ii) a unilateral document drafted by the employer and approved by the administration authority.

Consultation

The employer must carry out an information and consultation process, as appropriate, with either (i) the Social and Economic Committee (in companies employing less than 50 employees or in companies employing at least 50 employees but contemplating less than ten redundancies), or (ii) the Social and Economic Committee on the Redundancy Project and, if any, with the Trade Union on the Redundancy Plan (in companies employing at least 50 employees and contemplating at least ten redundancies).

If no Social and Economic Committee exists for a reason other than the failure to hold professional elections (e.g., due to the low level of workforce or the absence of any candidate during the last professional elections held), the redundancy process can be implemented by the employer and reviewed by the local labor administration. The employer has no further obligation to consult with other employee bodies or appoint representatives.

Penalties

Failure to comply with the above process could result in the employer's corporate officers facing criminal fines and damages that can be claimed by the Social and Economic Committee.

Failure to comply with the statutory procedure may also result in civil damages awarded to employees, in addition to possible unfair redundancy damages. In more extreme cases, it could also result in the Redundancy Plan and, as a result, the redundancies being void. The impacted employees may either claim for reinstatement and payment of their lost salaries or claim for unfair redundancy damages if reinstatement is impossible (e.g., due to site closure) or if the employees do not claim reinstatement.

Trade Unions can also claim damages based on the employer's violation of the applicable legal provisions.

Other

Where an employer employs less than 1,000 employees in France (or belongs to a group of companies employing less than 1,000 employees), employees made redundant are entitled to benefit from a state redeployment scheme, which should be proposed during the pre-redundancy meeting (when applicable). Where the employee accepts the redeployment scheme, the employment agreement will terminate 21 days after this meeting without the need for notice.

Where an employer employs at least 1,000 employees in France (or belongs to a group of companies employing at least 1,000 employees), the state redeployment scheme does not apply and the employer must implement its own redeployment scheme. Such company redeployment scheme consists of providing an employee with paid leave (between four and twelve months, including the notice period), during which the employees should receive personalized outplacement services and training.

The employer must comply with any additional process prescribed in any applicable in-house regulations or CBA.

The information provided to representatives and employees should be in French.

Specific rules may apply to the dismissal of certain categories of employee, depending on which category they belong to.

If a company implements a collective redundancy in circumstances where it has benefitted from a “partial reduction of activity scheme”, it may be required to reimburse state aids received in relation to the scheme.

Individual Redundancies

Threshold

Where an employer proposes to make redundant only one employee over a 30-day period.

Obligations

Redundancies can be validly made after applying selection criteria provided by law and/or the CBA when several employees hold the same position to be made redundant (e.g., based on the number of the employee's dependents, length of service, professional qualities and ability to redeploy) and provided (i) that the employee has enjoyed all adaptation and training measures required to improve employability, and (ii) the employer has complied with the legal obligation to propose adjusted internal redeployment opportunities, including job opportunities within other subsidiaries of the same group in France.

Once this has been completed, the employer must, within legally prescribed deadlines:

- (i) invite the employee to a pre-redundancy meeting;
- (ii) hold the meeting, during which the employer must explain the rationale for the redundancy; and
- (iii) notify the employee of the redundancy in writing (that is, the start date of the notice period, if any). The end date of the employment agreement corresponds to the end of the notice period or redeployment leave – see below.

Timing

The following time periods will apply to the redundancy process:

- (i) the employee must be given at least five working days' notice of the pre-redundancy meeting;
- (ii) an employee with executive status must be notified of his or her redundancy in writing no earlier than 15 days after the pre-redundancy meeting and an employee who does not have executive status must be notified of his or her redundancy in writing no earlier than seven days after the pre-redundancy meeting; and
- (iii) an employer must notify the labor authorities within eight days of sending the redundancy letter.

Representatives

There is no requirement to inform or consult with any Social and Economic Committee on an individual redundancy unless such redundancy is being made as part of a change to the general running of the company (e.g., a wider company reorganization).

Information/Notifications

There are two main notifications:

- (i) **Notification to employee:** The employee will need to be notified of the redundancy in writing. The redundancy letter must detail the economic rationale and must be sent by registered mail with return receipt requested no earlier than seven or 15 days after the pre-redundancy meeting depending upon the non-executive/executive status of the employee.
- (ii) **Notification to the labor authorities:** The labor authorities must be informed in writing of the individual redundancy implemented within eight days of the redundancy letter being sent to the employee.

Consultation

There is no requirement to inform or consult with any Social and Economic Committee on an individual redundancy unless such redundancy is being made as part of a change to the general running of the company (e.g., a wider company reorganization).

Penalties

Failure to comply with the above may result in an employee claiming damages for an irregular redundancy process, as well as potential damages for unfair redundancy (capped damages varying depending on overall headcount and the seniority of employees but, broadly speaking, around one month's salary per year of service up to ten years, increasing to a maximum of 20 months' salary).

Other

Where an employer employs less than 1,000 employees in France (or belongs to a group of companies employing less than 1,000 employees), the employee made redundant is entitled to benefit from a state redeployment scheme, which should be proposed during the pre-redundancy meeting. Where the employee accepts the redeployment scheme, the employment agreement will terminate 21 days after this meeting without the need for notice.

Where an employer employs at least 1,000 employees in France (or belongs to a group of companies employing at least 1,000 employees), the state redeployment scheme does not apply and the employer must implement its own redeployment scheme. Such company redeployment scheme consists of providing an employee with paid leave (between four and 12 months, including the notice period), during which the employee should receive personalized outplacement services and training.

The employer must comply with any additional process prescribed in any applicable in-house regulations or CBA.

In addition, specific rules may apply to the dismissal of certain categories of employee, depending on which category they belong to.

The information provided should be in French.