

Statement of Interpretation on Article 29

"With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned."

Article 29 of the Charter requires that state parties establish an information and consultation procedure which should precede the process of collective redundancies. Its provisions are directed – on the one hand – towards ensuring that workers are made aware of reasons and scale of planned redundancies, and – on the other hand – towards ensuring that the position of workers is taken into account when their employer is planning collective redundancies, in particular as regards the scope, mode and manner of such redundancies and the extent to which their consequences can be avoided, limited and/or mitigated.

In order to give effect to the requirements of Article 29, national law must thus provide for the following guarantees.

When employers implement information and consultation procedures preceding collective redundancies, employees should be represented by persons acting on behalf of all workers employed in the workplace. Such representatives may be either bodies operating in the employer's enterprise (for example, trade unions or workers' councils) or ad hoc representatives appointed to take part in this processes. National law should ensure that employees may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body. Such representatives should represent all employees who may be potentially subject to collective redundancies and should not suffer any negative consequences as a consequence of their activities in this regard.

Employers should be required to provide employees' representatives with all the relevant information necessary to ensure the integrity and effectiveness of the information and consultation process. This information should in particular include the reasons for the proposed redundancies, the criteria for determining which employees are to be made redundant, the proposed order and scheduling of such redundancies, the amount of any cash benefits or other forms of compensation and the scope and content of any planned social measures which are designed to mitigate the consequences of this process.

In principle, all relevant information should be provided to employees' representatives prior to the commencement of the consultation process, but national law should also guarantee the right of employees' representatives to be provided with all relevant information throughout the entire duration of the consultation process.

The information and consultation process should be conducted 'in good time prior to collective redundancies' as required by the text of Article 29. National law should thus ensure that employers are obliged to provide employees with information about planned collective redundancies sufficiently far in advance of the process, so as to enable employees and their representatives to become familiar with the key aspects of the planned redundancies. Consultation should also be conducted within a time period that is sufficient to ensure that employees' representatives have an opportunity to present suitable proposals with a view to avoiding, limiting or mitigating the effect of the proposed redundancies.

The information and consultation process should be directed towards not only the possible avoidance or minimisation of the scope of collective redundancies, but also at mitigating their consequences. It should therefore cover the possibility of undertaking actions aimed at retraining and redeployment of the workers concerned. As part of this process, employers should be required to cooperate with administrative authorities or public agencies which are responsible for the policy counteracting unemployment, by for example notifying them about planned collective redundancies and/or cooperating with them in relation to retraining employees who are made redundant or providing them with other forms of assistance with a view to obtaining a new job."