

SUMMARY

Case C-61/17. Collective redundancies

Must the notion of a controlling undertaking specified in the first subparagraph of Article 2(4) of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies be understood to mean only an undertaking whose influence is ensured through shareholdings and voting rights or does a contractual or de facto influence (e.g. as a result of the power of natural persons to give instructions) suffice?

If the answer to Question 1 is to the effect that an influence ensured through shareholdings and voting rights is not required: Does it constitute a 'decision regarding collective redundancies' within the meaning of the first paragraph of Article 2(4) of Directive 98/59/EC if the controlling undertaking imposes requirements on the employer such that it is economically necessary for the employer to effect collective redundancies?

If Question 2 is answered in the affirmative: Does the second subparagraph of Article 2(4) in conjunction with Article 2(3)(a), Article 2(3)(b)(i) and Article 2(1) of Directive 98/59/EC require the workers' representatives also to be informed of the economic or other grounds on which the controlling undertaking has taken its decisions that have led the employer to contemplate collective redundancies?

Is it compatible with Article 2(4) in conjunction with Article 2(3)(a), Article 2(3)(b)(i) and Article 2(1) of Directive 98/59/EC to place on workers pursuing a judicial process to assert the invalidity of their dismissal effected in the context of collective dismissals, on the basis that the employer effecting the dismissal did not properly consult the workers' representatives, a burden of presenting the facts and adducing evidence that goes beyond presenting the indicia for a controlling influence?

If Question 4 is answered in the affirmative: What further obligations to present facts and adduce evidence may be placed on the workers in the present case pursuant to the abovementioned provisions?

Creator: European Court of Justice (ECJ)

Verdict at: 2017-02-06

Case number: C-61/17