

KLUWER LAW INTERNATIONAL

**REDUNDANCY
LAW IN EUROPE**

Edited by

Maarten van Kempen

Lisa Patmore

Michael Ryley

Robert von Steinau-Steinrück

Co-ordinated by

Paul Bartelings



Wolters Kluwer

Law & Business

AUSTIN BOSTON CHICAGO NEW YORK THE NETHERLANDS

TABLE OF CONTENTS

Editors and Coordinator	xxvii
List of Contributors	xxix
Introduction	xxxiii
Redundancy	xxxv
Austria	1
<i>Leonhard Reis</i>	
1 Overview	1
2 Major Legal Regulations	2
2.1 Individual Termination of Employment	2
2.1.1 Sections 20 and 27 of the Act on White-Collar Workers	2
2.1.2 Section 105 of the Labour Constitution Act	3
2.2 Rights of the Works Council	4
2.2.1 Sections 108 and 109 of the Labour Constitution Act	4
2.2.2 Section 111 of the Labour Constitution Act	4
2.3 Notification to the Public Employment Market Service	5
2.3.1 Section 45a of the Labour Market Policy Act	5
2.4 Costs and Risks	6
2.4.1 Social Plans	6
2.4.2 Severance Payment (Section 23 Act on White-Collar Workers)	6
2.4.3 Vacation Compensation	7

2.4.4	Payment for Non-competition	7
2.4.5	Protected Groups of Employees	7
2.4.6	Notice Periods (Section 20 of the Act on White-Collar Workers)	7
2.4.7	Further Redundancy Costs and Risks that May Occur	8
3	Advice for Legal Practice	8
3.1	Timing	8
3.2	Costs and Risks	8
Belgium		9
<i>Hans Arnold</i>		
1	Overview	9
2	Major Regulations	10
2.1	Timing	10
2.1.1	Termination by Giving Notice	10
2.1.1.1	Duration	10
2.1.1.1.1	Blue-Collar Workers (Articles 37 and 59 of the Employment Act)	10
2.1.1.1.2	White-Collar Workers (Articles 37 and 82 of the Employment Act)	10
2.1.1.2	Formalities (Article 37 of the Employment Act)	11
2.1.2	Termination by Breach of Contract	11
2.1.3	Collective Dismissal	11
2.2	Information and Consultation	12
2.2.1	Individual Dismissal	12
2.2.2	Collective Dismissal	12
2.3	Risks	13
2.3.1	Language Legislation	13
2.3.2	Notice Restrictions	14
2.3.3	Wrongful Dismissal (Article 63 Employment Act)	14
2.3.4	Abusive Dismissal	15
2.3.5	Reinstatement	15
2.4	Costs	15
2.4.1	Calculation of the Dismissal Cost	15
2.4.2	Collective Dismissal	15
2.4.3	Damages in Case of Breach of Contract	16
2.4.4	Social Plan	16
3	Advice for Legal Practice	16
3.1	Timing	16
3.2	Information and Consultation	16
3.3	Risks	16

3.4	Costs	17
3.4.1	Calculation of Dismissal Cost	17
3.4.2	Cost of Older Employees	17
Bulgaria		19
<i>Anelia Dinova</i>		
<i>Todor Kakchev</i>		
1	Overview	19
1.1	Regulations	19
1.2	Redundancy	20
1.3	Cause (Article 328, paragraph 1, items 1-4)	20
2	Major Legal Regulations	21
2.1	Timing	21
2.1.1	Notice Period (Article 328, paragraph 1 in relation to Article 326, paragraph 2 of the LC)	21
2.1.2	Collective Redundancies	22
2.2	Information and Consultation	23
2.2.1	Collective Redundancies	23
2.2.2	Works Councils, Employees' Representatives	23
2.3	Risks	23
2.3.1	Selection Criteria (Article 329 of the LC)	23
2.3.2	Notice Restrictions (Article 333 of the LC)	24
2.3.3	Protection against Unfair Dismissal	26
2.3.4	Wrongful Dismissal	26
2.3.5	Discrimination	26
2.4	Costs	26
2.4.1	Compensation	26
2.4.2	Damages Unfair Dismissal	27
3	Advice for Legal Practice	27
3.1	Timing	27
3.2	Information and Consultation	27
3.3	Risks	27
3.4	Costs	28
Cyprus		29
<i>Dr Achilles C. Emilianides</i>		
1	Overview	29
1.1	Employment Regulations in General	29
1.2	Redundancy	30
2	Major Legal Regulations	30
2.1	Timing	30
2.1.1	Periods of Notice	30
2.1.2	Notification to Ministry of Labour	30

2.2	Information and Consultation	31
2.2.1	Individual Redundancy	31
2.2.2	Collective Dismissals	31
2.3	Risks	31
2.3.1	Legal Requirements of Redundancy	31
2.3.2	Selection Criteria	33
2.3.3	Notice Restrictions	33
2.3.4	Wrongful Dismissal	33
2.3.5	Application to the Redundancy Fund and Action in the Industrial Disputes Court	34
2.3.6	Unfair Dismissal	35
2.4	Compensation	35
3	Advice for Legal Practice	35

Czech Republic **37**

Tereza Kadlecová

Eva Svobodová

1	Overview	37
2	Main Requirements and Considerations	38
2.1	Timing	38
2.1.1	Notice Periods	38
2.1.2	Collective Redundancies	38
2.2	Information and Consultation	39
2.2.1	Collective Consultation	39
2.3	Risks	40
2.3.1	Protected Categories of Employees	41
2.3.2	Selection Criteria	41
2.3.3	Unlawful Dismissal	41
2.3.4	Discrimination	41
2.4	Costs	42
2.4.1	Severance Payments	42
2.4.2	Damages	42
2.4.3	Administrative Offence (Sections 21 et seq. of the Act on Inspection of Work)	42
3	Practical Advice	42

Denmark **45**

Ewa Ljung Rasmussen

1	Overview	45
2	Major Legal Regulations	46
2.1	Timing	46
2.1.1	Periods of Notice	46
2.1.1.1	Salaried Employees	46

2.1.1.2	Workers	46
2.1.2	Timelines for Notification, Information, Consultation and Negotiation	47
2.1.2.1	Individual Redundancy	47
2.1.2.2	Collective Redundancy	47
2.2	Information and Consultation	48
2.2.1	Works Councils and European Works Councils	48
2.2.2	Collective Dismissals Act	49
2.2.3	Information and Consultation Act	49
2.3	Costs and Risks	50
2.3.1	Periods of Notice and Redundancy Payment	50
2.3.1.1	Salaried Employees	50
2.3.1.2	Workers	50
2.3.2	Protection against Unfair Dismissal	50
2.3.2.1	Salaried Employees	50
2.3.2.2	Workers	51
2.3.2.3	Transfer of Undertakings	51
2.3.3	Protected Employees	51
2.3.4	Fines and Penalties	52
3	Advice for Legal Practice	52
3.1	Timing	52
3.2	Information and Consultation	52
3.3	Costs and Risks	53

Estonia **55**

Maksim Greinoman

Daisy Tauk

1	Overview	55
1.1	Introduction	55
1.2	Redundancy	56
1.2.1	Business Liquidation	56
1.2.2	Employer Insolvency	56
1.2.3	Employee Lay-Offs	57
1.3	Collective Redundancies	57
2	Major Regulations	58
2.1	Timing	58
2.1.1	Notice Periods	58
2.1.2	Collective Redundancies	58
2.2	Information and Consultation	58
2.2.1	Collective Redundancies	58
2.3	Risks	59
2.3.1	Selection Criteria	59
2.3.1.1	Lay-Offs	59
2.3.2	Notice Restrictions	60

2.3.3	Disputes	61
2.3.3.1	Illicit Dismissal	61
2.3.3.2	Jurisdiction	61
2.3.3.3	Remedies following Unfair Dismissal	62
2.3.4	Performance after Termination Date	62
2.3.5	Discrimination	62
2.4	Costs	63
2.4.1	Statutory Compensation	63
2.4.1.1	Insolvency	63
2.4.1.2	The Unemployment Insurance Fund (UIA)	63
2.4.2	Compensation Plans	64
3	Advice for Legal Practice	64
3.1	Timing, Risks, and Costs	64
3.2	Risks	64
Finland		65
<i>Riitta Sedig</i>		
<i>Pavel Koivistoinen</i>		
<i>Petteri Viljakainen</i>		
1	Overview	65
1.1	Finnish Labour Law	65
1.2	Methods of Terminating an Employment Contract	66
1.2.1	Contract for an Indefinite Period	66
1.2.2	Termination upon Notice	66
1.2.3	Rescission	66
1.2.4	Deemed Dissolution	66
1.2.5	Termination by Agreement	67
1.3	Legal Grounds for Giving Notice of Termination	67
1.3.1	Introduction	67
1.3.2	Grounds Related to an Employee's Person (TSL, 7:2)	67
1.3.3	Financial and Production-Related Grounds (TSL, 7:3)	67
1.3.4	Special Situations	68
2	Major Legal Regulations of Termination upon Notice	68
2.1	Timing	68
2.1.1	Pre-notice Hearing in the Case of Individual Dismissals	68
2.1.2	Pre-notice Negotiations in the Event of Collective Redundancy	68
2.1.3	Pre-notice Procedure in Financial and Production-Related Cases where the Co-operation Procedure Is Inapplicable	69

2.2	Notice Periods	69
2.2.1	Introduction	69
2.2.2	Termination upon Rescission	69
2.2.3	Termination upon Notice	69
2.3	Information and Consultation	70
2.3.1	Collective Redundancy	70
2.4	Risks	71
2.4.1	Selection Criteria	71
2.4.2	Re-hiring Employees	71
2.4.3	Notice Restrictions and Special Protected Employees	72
2.4.4	Wrongful Dismissal	73
2.4.5	Unlawful Dismissal	73
2.4.6	Discrimination	73
2.5	Costs	74
2.5.1	Damages in the Case of Unlawful Dismissal	74
2.5.2	Damages for Neglect of Co-operation Procedure (YTL, § 62)	74
2.5.3	Social Plan	75
3	Advice for Legal Practice	75
France		77
<i>Roselyn Sands</i>		
<i>Etienne Pujol</i>		
<i>Laurent-Paul Tour</i>		
1	Overview	77
2	Major Legal Regulations	78
2.1	Dismissals for Economic Reasons	78
2.1.1	Definition	78
2.1.2	Scope	79
2.2	Information and Consultation Procedures	79
2.2.1	Preliminary Requirements	79
2.2.1.1	Employer's Duty to Prevent Redundancy	79
2.2.1.2	Relocation Obligation	80
2.2.2	Redundancy Procedure	80
2.2.2.1	Outline of the Book IV Procedure	81
2.2.2.2	Outline of the Book III Procedure	81
2.2.3	'Method Agreements'	82
2.3	Cost and Penalties	82
2.3.1	Legally Required Costs	82
2.3.2	Job Saving Plan Costs	83
2.3.2.1	Supplemental Termination Indemnity	83
2.3.2.2	Redeployment Leave Costs	83

2.3.3	Additional Termination Costs	84
2.3.3.1	Litigation Costs	84
2.3.3.2	Assedic Reimbursement Costs	84
2.3.3.3	Miscellaneous Costs	84
2.3.4	Principal Penalties	84
3	Recommendations	85
3.1	Timing Is Critical	85
3.1.1	Anticipate the Length of the Procedure	85
3.1.2	Anticipate Delays	85
3.2	Adequate Job Saving Plan	86
3.3	Social and Political Context in France	86
 Germany		89
<i>Robert von Steinau-Steinrück</i>		
<i>Alexander von Vogel</i>		
1	Overview	89
2	Major Legal Regulations	90
2.1	Timing	90
2.1.1	Periods of Notice (§ 622 Code of Civil Law (BGB))	90
2.1.2	Hearing of the Works Council (§ 102 Works Constitution Act (BetrVG))	90
2.1.3	Codetermination Rights of the Works Council (§§ 111-113 BetrVG)	91
2.1.4	Collective Redundancies (§§ 17-22 KSchG)	91
2.2	Information and Consultation	92
2.2.1	Hearing of the Works Council (§ 102 BetrVG)	92
2.2.2	Codetermination Rights of the Works Council (§§ 111-113 BetrVG)	93
2.2.3	Collective Redundancies (§ 17-22 KSchG)	93
2.3	Cost and Risks	94
2.3.1	Protection against Unfair Dismissals Act (<i>Kündigungsschutzgesetz</i>)	94
2.3.2	Periods of Notice (§ 622 BGB)	94
2.3.3	Hearing of the Works Council (§ 102 BetrVG)	95
2.3.4	Codetermination Rights of the Works Council (§§ 111-113 BetrVG)	95
2.3.5	Collective Redundancies (§§ 17-22 KSchG)	95
3	Advice for Legal Practice	96
3.1	Timing	96
3.2	Information and Consultation	96
3.3	Cost and Risks	96

Greece	97
<i>Ioannis Meimeteas</i>	
1 Overview	97
1.1 Employment Contracts of Definite Duration versus Indefinite Duration	97
1.1.1 Employment Contracts of Definite Duration	97
1.1.2 Employment Contracts of Indefinite Duration	98
2 Major Legal Regulations	98
2.1 Timing	98
2.1.1 Period of Notice: Amount of Termination Indemnity	98
2.1.2 Procedure before the Works Councils	99
2.1.3 Collective Redundancies	100
2.2 Information and Consultation	101
2.2.1 Collective Redundancies	101
2.3 Costs and Risks	101
2.3.1 Protection against Dismissal	101
2.3.2 Protection against Abusive Dismissal	102
2.3.3 Collective Redundancies	102
3 Advice for Legal Practice	103
3.1 Timing	103
3.2 Information and Consultation	103
3.3 Costs and Risk	103
Hungary	105
<i>Dr Imre Krisch</i>	
<i>Dr Norá Kürti</i>	
1 Overview	105
2 Major Legal Regulations	105
2.1 Fixed-Term Employment Termination	105
2.2 Indefinite Employment Termination	106
3 Timing	106
3.1 Notice Periods (§ 92 LC)	106
3.2 Timing of the Termination	106
4 Information and Consultation	107
4.1 Informing the Employee before Delivering the Termination Letter	107
4.2 Information Rights of the Works Council (Workers' Representatives) and the Employment Centre in Cases of Mass Redundancies (§ 94/A LC)	107
4.2.1 Step 1	107
4.2.2 Step 2	107
4.2.3 Step 3	107

4.2.3.1	Information to Be Disclosed and Content of the Consultation	107
4.2.4	Step 4	108
4.2.5	Step 5	108
4.2.6	Step 6	108
5	Cost and Risks	108
5.1	Legal Consequences of Unlawful Termination (§ 100 LC)	108
5.2	Notice Periods and Severance Pay (§§ 92 and 95 LC)	109
6	Reasons for Termination	109
7	Mass Redundancies: Consequences of the Breach of Provision 94/A LC	110
8	Advice for Legal Practice	110
8.1	Timing	110
8.2	Information and Consultation	110
8.3	Cost and Risks	110
Ireland		111
<i>Kevin Langford</i>		
1	Overview	111
1.1	Redundancies in General	111
1.2	Collective Redundancies	113
2	Major Legal Regulations	113
2.1	Timing	113
2.1.1	Notice	113
2.1.2	Collective Redundancies	114
2.1.3	Notification to the Minister for Enterprise, Trade, and Employment	114
2.2	Information and Consultation	114
2.2.1	Collective Redundancies	114
2.2.2	Notification to the Minister for Enterprise, Trade, and Employment	115
2.3	Risks	115
2.3.1	Redundancy Legislation	115
2.3.2	Industrial Relations Acts 1946-2004	115
2.3.3	Injunction	116
2.3.4	Unfair Dismissal	116
2.3.5	Wrongful Dismissal	117
2.3.6	Discriminatory Dismissal	117
2.3.7	Selection Criteria	117
2.3.8	Notice Restrictions	118
2.4	Costs	118
2.4.1	Statutory Redundancy Payments	118
2.4.2	Ex Gratia Termination Payments	118

3	Advice for Legal Practitioners	119
3.1	Timing	119
3.2	Information and Consultation	119
3.3	Risks	119
3.4	Costs	119
Italy		121
<i>Maria Teresa Iannella</i>		
<i>Stefania Radoccia</i>		
1	Overview: Law No. 223/91 on Collective Dismissal	121
2	Redundancy Procedures: Legal Requirements	122
2.1	Notification and Information	122
2.2	Consultations	123
2.3	Dismissal	123
2.4	Cost of Dismissal	124
2.5	Risks in Case of Unfair Dismissal	124
3	Advice for Legal Practice	125
3.1	Notification and Information	125
3.2	Consultation	125
3.3	Dismissal	126
Latvia		127
<i>Imants Jansons</i>		
1	Overview	127
1.1	Terminating an Employment Contract by Giving Notice	127
1.2	Termination by Court Decision	128
1.3	Collective Redundancy	129
2	Legal Regulations	129
2.1	Timing	129
2.1.1	Termination by Notice	129
2.1.2	Termination by Court Decision	130
2.1.3	Collective Redundancies	130
2.2	Information and Consultation	131
2.2.1	Collective Redundancies	131
2.3	Risks	132
2.3.1	Selection Criteria	132
2.3.2	Notice Restrictions	132
2.3.3	Wrongful Dismissal	133
2.3.4	Unfair Dismissal	133
2.3.5	Collective Redundancy	134
2.3.6	Discrimination	134
2.4	Costs	134
2.4.1	Compensation	134

2.4.2	Damages for Unfair Dismissal	135
2.4.3	Social Plan	135
3	Practical Advice	135
3.1	Timing, Information, and Consultation	135
3.2	Cost and Risks	135
Lithuania		137
<i>Ieva Povilaitienė</i>		
1	Overview	137
2	Major Legal Regulations	138
2.1	Timing	138
2.1.1	Pre-notice Information and Consultation	138
2.1.2	Notice Period	138
2.1.3	Collective Redundancies	139
2.2	Information and Consultation	139
2.2.1	Information and Consultation with the Representatives of the Employees in the Case of Collective Redundancies	139
2.3	Risks	140
2.3.1	Notice Restrictions	140
2.3.2	Selection Criteria	140
2.4	Costs	141
2.4.1	Statutory Compensation	141
2.4.2	Costs as a Result of Unlawful or Unfair Dismissal	141
3	Advice for Legal Practice	142
3.1	Timing	142
3.2	Cost and Risks	142
Luxembourg		143
<i>Guy Castegnaro</i>		
<i>Ariane Claverie</i>		
1	Overview	143
2	Major Legal Regulations	144
2.1	Timing	144
2.1.1	Duration of the Notice Period (Article L.124-3)	144
2.1.2	Collective Redundancies (Articles L.166-1 to L.166-9)	144
2.1.2.1	Notification to the Labour Administration (Article L.166-4)	144
2.1.2.2	Collective Consultation (Articles L.166-1 to L.166-8)	144
2.1.3	Individual Redundancies (Part V, Title I, Chapter I)	145

2.1.3.1	Notification to the <i>Comité de Conjoncture</i> (Committee of Economic Circumstances) (Article L.511-27)	145
2.1.3.2	Collective Consultation Aimed at Reaching an Employment Maintenance Plan (Articles L.513-1 to L.513-4)	145
2.2	Information and Consultation	146
2.2.1	Notification and Consultation Obligations in Cases of Individual Redundancies (Articles L.124-2 and L.124-5)	146
2.2.2	Notification and Consultation Obligations in Cases of Collective Redundancies (Article L.166-2)	146
2.3	Risks	147
2.3.1	Unfair Dismissal/Redundancy	147
2.3.2	Rights of the Employees' Representatives (Articles L.415-11 and L.425-4)	147
2.3.3	Discrimination	148
2.3.4	Maternity Leave and Parental Leave (Article L.337-1)	148
2.4	Costs	148
2.4.1	Departure Allowance (Article L.124-7)	148
2.4.2	Treatment during the Notice Period (Article L.124-9)	148
2.4.3	Claims for Unfair or Unlawful Dismissal (Articles L.124-11 and L.124-12)	149
3	Advice for Legal Practice	149
3.1	Timing	149
3.2	Information and Consultation	149
3.3	Risks and Costs	150
3.3.1	Alternative Employment	150
3.3.2	Use of Settlement and Waiver Agreements in Cases of Claims	150
Malta		151
<i>Matthew Brincat</i>		
1	Overview	151
2	Major Legal Regulations	152
2.1	Timing	152
2.1.1	Notice Periods (EIRA, Section 36(5))	152
2.1.2	Selection of Employees to Be Made Redundant (EIRA, Section 36(4))	153
2.1.3	The Possibility of Re-instatement (EIRA, Section 36(3))	153
2.1.4	Mass Lay-Offs Collective Redundancies (Legal Notice 428 of 2002)	154

2.2	Information and Consultation	154
2.2.1	Consultation with the Workers' Representatives (Legal Notice 428 of 2002 & Section 37 of EIRA)	154
2.2.2	Mass Lay-Offs (Legal Notice 428 of 2002)	155
2.3	Cost and Risks	155
2.3.1	Protection against Unfair Dismissal	155
2.3.2	Notice Periods	156
2.3.3	Consultation with the Workers Representatives	156
3	Advice for Legal Practice	156
3.1	Timing	156
3.2	Information and Consultation	156
3.3	Cost and Risks	157
The Netherlands		159
<i>Wouter Engelsman</i>		
<i>Hannagnes Faber</i>		
<i>Maarten van Kempen</i>		
<i>Dave Sieler</i>		
1	Overview	159
1.1	Termination of Employment Agreement	159
1.1.1	Termination by Giving Notice	160
1.1.2	Termination by Court Decision	160
1.2	Mutual Consent	160
1.3	Individual versus Collective Redundancy	161
1.4	Compensation	161
2	Major Regulations	161
2.1	Timing	161
2.1.1	Termination by Giving Notice	161
2.1.1.1	Pre-notice Procedure (BBA 1945)	161
2.1.1.2	Notice	161
2.1.2	Termination by Court Decision	162
2.1.3	Collective Redundancy	162
2.1.4	Works Council	163
2.2	Information and Consultation	163
2.2.1	Pre-notice Procedure	163
2.2.2	Collective Redundancy	164
2.2.3	Works Council	164
2.3	Risks	165
2.3.1	Selection Criteria	165
2.3.2	Notice Restrictions	165
2.3.3	Wrongful Dismissal	166
2.3.4	Manifestly Unreasonable Dismissal	166
2.3.5	Discrimination	166

2.4	Costs	167
2.4.1	Damages in Case of Manifestly Unreasonable Dismissal	167
2.4.2	Court Formula in Case of Termination by Court Decision	167
2.4.3	Social Plan	168
3	Advice for Legal Practice	168
3.1	Timing	168
3.2	Information and Consultation	168
3.3	Risks	169
3.3.1	Termination by Notice or Court Decision	169
3.3.2	Mutual Consent and Pro-forma Court Decision	169
3.4	Costs	169
3.4.1	Outplacement	169
3.4.2	Court Formula	170

Poland **171**

Lukasz Kuczkowski

1	Overview	171
2	Major Legal Regulations	172
2.1	Timing	172
2.1.1	Termination	172
2.1.1.1	Mutual Agreement	172
2.1.1.2	Unilateral Termination	172
2.1.2	Notice Periods	173
2.1.3	Collective Redundancies	173
2.1.3.1	Scope of Collective Redundancies	173
2.1.3.2	Notifications	174
2.1.3.3	Carrying out the Redundancies	175
2.2	Information and Consultation	175
2.2.1	Individual Redundancy	175
2.2.1.1	Trade Unions	175
2.2.1.2	Works Council	176
2.2.2	Collective Redundancies	176
2.2.2.1	Trade Unions	176
2.2.2.2	Employee Representative	176
2.2.2.3	Works Council	177
2.2.2.4	By-laws	177
2.3	Risks	177
2.3.1	Individual Redundancy	177
2.3.1.1	Unfair Dismissal	177
2.3.1.2	Consequences of the Employer's Failure to Follow the Procedure	178
2.3.1.3	Notice Restrictions	178

2.3.2	Collective Redundancies	179
2.3.2.1	Selection Criteria	179
2.3.2.2	Unfair Dismissal	179
2.3.2.3	Notice Restrictions	179
2.3.2.4	Re-employment	179
2.3.2.5	Consequences of the Employer's Failure to Follow the Procedure	180
2.3.2.6	Discrimination	180
2.4	Costs	180
2.4.1	Individual Redundancy	180
2.4.2	Collective Redundancies	181
2.4.2.1	Mandatory Compensation	181
2.4.2.2	Social Plan	181
3	Advice for Legal Practice	181
3.1	Individual Redundancies	181
3.1.1	Timing	181
3.1.2	Risks	182
3.2	Collective Redundancies	182
3.2.1	Timing	182
3.2.2	Costs	182

Portugal

183

Luís Miguel Monteiro

Joana Almeida

1	Overview	183
2	Main Legal Regulations	184
2.1	Timing	184
2.1.1	Threshold	184
2.1.2	Grounds	184
2.1.2.1	Market Grounds	184
2.1.2.2	Structural Grounds	184
2.1.2.3	Technological Grounds	184
2.1.3	Additional Requirements	185
2.1.4	Notice Periods	185
2.1.5	Intention to Dismiss	185
2.1.5.1	Collective Redundancy Dismissals	185
2.1.5.2	Individual Redundancy Dismissals	185
2.1.6	Information and Consultation	186
2.1.6.1	Collective Redundancies	186
2.1.6.2	Individual Redundancy Dismissals	186
2.1.7	Decision to Dismiss	186
2.1.7.1	Collective Redundancy Dismissals	186
2.1.7.2	Individual Redundancy Dismissals	186

2.2	Information and Consultation	187
2.2.1	Prior Information and Consultation Duties	187
2.3	Risks	187
2.3.1	Selection Criteria	187
	2.3.1.1 Collective Redundancy Dismissals	187
	2.3.1.2 Individual Redundancy Dismissals	187
2.3.2	Notice Restrictions	188
2.3.3	Judicial Proceedings	188
2.3.4	Unfair Dismissal	188
2.3.5	Discrimination	188
2.4	Costs	189
2.4.1	Statutory Redundancy Payment	189
2.4.2	Damages in the Case of Unfair Dismissal	189
2.4.3	Social Plan	190
3	Advice for Legal Practice	190
3.1	Timing	190
3.2	Cost and Risks	190

Romania **193**

Cristina Bazilescu

1	Overview	193
1.1	Redundancy	193
2	Legal Requirements	194
2.1	Timing	194
	2.1.1 Notice Periods	194
	2.1.2 Collective Redundancies	195
2.2	Information and Consultation	195
	2.2.1 Individual Redundancies	195
	2.2.2 Collective Redundancies	196
2.3	Risks	197
	2.3.1 Selection Criteria	197
	2.3.2 Notice in Writing	198
	2.3.3 Notice Restrictions	198
	2.3.4 Other Employee Protection	198
	2.3.5 Rehiring	199
	2.3.6 Wrongful Dismissal	199
	2.3.7 Unfair Dismissal	199
	2.3.8 Discrimination	199
2.4	Costs	200
	2.4.1 Mandatory Compensation	200
	2.4.2 Damages	200
	2.4.3 Social Plans	200

3	Practical Advice	201
3.1	Timing	201
3.2	Information and Consultation	201
3.3	Costs and Risks	201
Russia		203
<i>Nadezhda Bulatova</i>		
<i>Nadezhda Serova</i>		
<i>Sergey Stefanishin</i>		
1	Overview	203
2	Main Requirements and Considerations	204
2.1	Timing	204
2.1.1	Notice Periods	204
2.1.2	Collective Redundancies	205
2.2	Information and Consultation	207
2.2.1	Collective Consultation	207
2.3	Formalizing the Dismissal	207
2.4	Risks and Costs	208
2.4.1	Protected Employee Categories	208
2.4.2	Legal Redundancy Requirements for Certain Employee Categories	209
2.4.2.1	Employees Located in the Far North and Equated Localities	209
2.4.2.2	Employees on Fixed-Term Contracts of Two Months or Less	209
2.4.2.3	Employees under the Age of Eighteen	209
2.4.2.4	Seasonal Workers	210
2.4.2.5	Directors and Chief Accountants	210
2.4.2.6	Works Council Members	210
2.4.3	Unlawful Dismissal	211
2.4.4	Reinstatement of the Employee	211
2.4.5	Severance Pay	212
3	Redundancy in Practice	212
Slovak Republic		213
<i>Tomáš Čermák</i>		
<i>Zuzana Majerčáková</i>		
<i>Karin Šturdíková</i>		
1	Overview	213
2	Main Requirements and Considerations	214
2.1	Timing	214
2.1.1	Individual Redundancies	214
2.1.2	Collective Redundancy	215

2.2	Information and Consultation	216
2.2.1	Individual Redundancies	216
2.2.2	Collective Redundancy	216
2.3	Risks	217
2.3.1	Protected Groups of Employees	217
2.3.2	Invalid Termination by the Employer	218
2.3.3	Discrimination	219
2.4	Costs	219
2.4.1	Severance Payments	219
2.4.2	Compensation for Invalid Termination	220
2.4.3	Payments for Breach of Collective Redundancy Provisions	220
2.4.4	Penalties under Labour Law Regulations	220
3	Practical Advice	221
3.1	Timing	221
3.2	Information and Consultation	221
3.3	Risks and Costs	221
Slovenia		223
<i>Ralf Pescheck</i>		
<i>Melanie Taufner</i>		
1	Overview	223
2	Major Legal Regulations	224
2.1	Timing	224
2.1.1	Examination of the Possibility of Continued Employment (ERA Article 88, paragraph 3)	224
2.1.2	Ex ante Information (ERA Article 83, paragraph 3)	224
2.1.3	Notification to the Trade Union (ERA Article 84)	225
2.1.4	Periods of Notice (ERA Articles 91 et seq.)	225
2.1.5	Mass Lay-Offs (ERA Articles 96 et seq.)	226
2.2	Information and Consultation	226
2.2.1	Notification to the Trade Union	226
2.2.2	Consultation Rights of the Works Council (The Law on Worker Participation in Management, Articles 91 et seq.)	227
2.2.3	Mass Lay-Offs	227
2.3	Cost and Risks	228
2.3.1	Severance Payment	228
2.3.2	Protection against Unlawful Termination	228
2.3.3	Right to Re-employment (ERA Article 102)	229
2.3.4	Consultation with the Works Council	229
2.3.5	Mass Lay-Offs (ERA Article 96)	229
3	Advice for Legal Practice	229
3.1	Timing	229
3.2	Information and Consultation	230
3.3	Cost and Risks	230

Spain	231
<i>Jesús Domingo Aragón</i>	
<i>Eva Sainz Cortadi</i>	
1 Overview	231
1.1 Termination of Employment Agreements	231
1.2 Redundancy	232
1.3 Collective Redundancies	232
2 Major Legal Regulations	232
2.1 Timing	232
2.1.1 Notice Periods	232
2.1.2 Collective Redundancies	232
2.2 Information and Consultation	234
2.2.1 Collective Redundancies	234
2.3 Risks	234
2.3.1 Collective Redundancy	234
2.3.2 Selection Criteria	235
2.3.3 Special Protection	235
2.3.4 Wrongful Dismissal	235
2.3.5 Null and Void Dismissals	235
2.3.6 Unfair Dismissal	235
2.3.7 Discrimination	235
2.4 Costs	236
2.4.1 Statutory Compensation	236
2.4.2 Unfair Dismissal	236
2.4.3 Social Plan	236
3 Advice for Legal Practice	237
3.1 Reaching an Agreement with the Unions	237
3.2 Timing	237
3.3 Information and Consultation	237
3.4 Cost and Risks	237
3.4.1 Minimum Statutory Compensation versus Unfair Dismissal Compensation	237
Sweden	239
<i>Jessica Stålhammar</i>	
1 Overview	239
2 Main Requirements and Considerations	240
2.1 Timing	240
2.1.1 Notice Periods	240
2.1.2 Collective Redundancies	241
2.2 Information and Consultation	241
2.2.1 Collective Consultation	241
2.2.2 Individual Consultation	241

2.3	Risks	242
2.3.1	Legal Requirements	242
2.3.2	Selection Criteria	242
2.3.3	Redundancies and the Sale of a Business	243
2.3.4	Unlawful Dismissal	243
2.3.5	Discrimination	244
2.3.6	Rehiring Employees after Redundancy	244
2.4	Costs	245
2.4.1	Severance Payments	245
2.4.2	Damages/Compensation	245
3	Practical Advice	245
Switzerland		247
<i>Andrea Bantle</i>		
<i>Andrea Kaiser</i>		
<i>Sara Licci</i>		
1	Overview	247
2	Main Requirements and Considerations	248
2.1	Timing	248
2.1.1	Notice Periods	248
2.1.1.1	General Position	248
2.1.1.2	Notice of Termination at Improper Time	249
2.1.1.3	Abusive Notice of Termination	250
2.1.1.4	Dismissal with Immediate Effect	250
2.1.2	Collective Redundancies	251
2.1.3	Notification to the Cantonal Labour Office	251
2.2	Information and Consultation	251
2.2.1	Collective Consultation	251
2.2.1.1	Effective Date of Termination	252
2.2.1.2	Timing and Consultation	252
2.2.1.3	Cantonal Labour Office	252
2.2.2	Individual Consultation	252
2.3	Risks	252
2.3.1	Legal Requirements	252
2.3.2	Selection Criteria	253
2.3.3	Notice Restriction	253
2.3.4	Compensation	253
2.3.5	Discrimination	253
2.4	Costs	254
2.4.1	Compensation	254
2.4.2	Social Plans	254
3	Practical Advice	255
3.1	Notice	255
3.2	Collective Redundancies	255
3.3	Consequences	255

United Kingdom	257
<i>Ben Doherty</i>	
<i>Catherine Johns</i>	
1 Overview	257
2 Major Legal Regulations	258
2.1 Timing	258
2.1.1 Notice	258
2.1.2 Collective Consultation	258
2.1.3 Notification to the Secretary of State	259
2.1.4 Individual Redundancies	259
2.2 Information and Consultation	259
2.2.1 Collective Consultation	259
2.2.2 Notification to the Secretary of State	260
2.2.3 Individual Consultation	260
2.3 Risks	260
2.3.1 Employment Rights Act 1996, Part X: Unfair Dismissal	260
2.3.2 Employment Rights Act 1996, Part XI: Redundancy	260
2.3.3 Employment Act 2002, Schedule 2: Statutory Dispute Resolution Procedures	261
2.3.4 Discrimination	261
2.3.5 Maternity Leave	261
2.4 Costs	262
2.4.1 Employment Rights Act 1996, Part XI: Redundancy Payments	262
2.4.2 Protective Award	262
2.4.3 Unfair Dismissal	262
2.4.4 Notice	263
3 Advice for Legal Practitioners	263
3.1 Timing	263
3.1.1 Collective Redundancies	263
3.1.2 'One Establishment'	264
3.2 Information and Consultation	264
3.3 Risks	265
3.3.1 Planning	265
3.3.2 Minimum Service	265
3.3.3 SOSR [Some Other Substantial Reason]	266
3.3.4 Statutory Dismissal Procedure	266
3.3.5 Absent Employees	266
4 Costs	266
4.1 Alternative Employment	266
4.2 Protective Award	267
Index	269