



Collective redundancies in Turkey: general principles

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As global inflation continues to rise, many businesses are facing the dual challenge of escalating costs and declining revenues. In response, a growing number of organisations are implementing cost-cutting measures, including collective redundancy, in an effort to maintain financial stability.

This article explores the key principles of collective redundancy in Turkey, examining its implications and providing practical insights for companies navigating these uncertain economic conditions.

What is collective redundancy?

A collective redundancy refers to the termination of a certain number of employees within a one-month period (either on the same day or on various days within that period) due to economic, technological, structural, or similar reasons related to the business, the work, or the workplace.

Generally, terminations resulting from employee performance (eg, poor performance) or behaviour (eg, attitude problems) do not fall under the scope of a collective redundancy. Additionally, mutual termination agreements are typically excluded from the collective redundancy process, regardless of the reasons for their implementation.

The threshold for triggering a collective redundancy depends on the total number of employees at the workplace, as follows:

- 20 to 100 employees: dismissal of at least ten employees
- 101 to 300 employees: dismissal of at least 10% of the workforce
- 301+ employees: dismissal of at least 30 employees

It is essential for employers to carefully assess both the reasons for termination and the ratio of terminated employees to the total workforce to avoid unintentionally triggering a collective redundancy.

Formalities

A company planning to implement a collective redundancy is required to properly inform the workplace union representative (if applicable), as well as the regional social security directorate and the Turkish Employment Agency, through a written notification.

This notification must include details about the grounds for the collective redundancy, the number and groups of employees to be dismissed, and the period during which the redundancies will take place. The notification must be sent to the relevant parties at least 30 days prior to the intended collective redundancy.

Additionally, the company must consult with the workplace union representative (if applicable) regarding potential measures to avoid or reduce the number of terminations, as well as steps to mitigate or minimise the negative effects of the redundancies on employees. At the end of the consultation, a written document must be produced to formalise the outcomes.

In practice, the company will first adopt a resolution outlining the reasons for the collective redundancy (supported by evidence, if possible) and then proceed with the notification and consultation process described above.

It is crucial for a company to comply with the formalities related to collective redundancy for two main reasons.

First, failure to do so may affect the effective date of terminations, which in turn impacts the calculation of termination-related entitlements.

Second, while the legislation does not explicitly address this issue, it is widely argued that non-compliance with the formalities could invalidate the terminations, increasing the risk of an unfavourable court ruling if an employee challenges their dismissal.

Compliance obligations

A collective redundancy does not relieve a company from the obligation to comply with the individual termination process. The company is still required to provide each terminated employee with a termination notice, in accordance with the relevant notice period. The termination will take effect once the 30-day period following the delivery of the written notice has passed.

Additionally, the company must ensure terminations are not arbitrary. It must also continue to adhere to the principle of termination as a last resort, as is customary. This is particularly important because, although each employee must file an individual employment entitlement claim lawsuit, a favourable ruling for one employee could set a precedent for others in their cases.

To minimise this risk, it is advisable for the company to conduct thorough audits and prepare documentation that justifies the necessity and proportionality of the terminations in advance.

Post-collective redundancy limitations

The key post-collective redundancy limitations are as follows:

- If the employer undertakes new recruitment within six months after the collective redundancy, they must, where possible, offer re-employment to the employees who were made redundant.
- Employers who implement collective redundancy are prohibited from establishing temporary employment relationships for a period of eight months following the redundancy.

Failure to comply with these limitations may result in an administrative fine.

Conclusion

In conclusion, while collective redundancy can be an effective strategy for companies seeking to reduce costs, failure to adhere to the necessary formalities can jeopardise the legality of each individual termination.

Such oversights may expose the company to legal challenges, with employees potentially disputing their dismissals in court. Given the typically employee-friendly approach taken by Turkish courts, this could result in unfavourable rulings for the company.

The financial consequences of these legal disputes will vary depending on the specifics of each case, but employees may also use favourable court decisions in similar cases as precedents, potentially increasing the overall financial risk. Therefore, it is essential for employers to carefully plan and execute the collective redundancy process.

Taking proactive steps to ensure compliance can help minimise risk and prevent the outcome of "the cake not being worth the candle". By structuring the redundancy process effectively, companies can reduce legal exposure and facilitate a smoother transition for both the organisation and its employees.