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COMMISSION PROPOSAL ON COLLECTIVE DISMISSAL

On 8 November 1972 the Commission submitted to the Council a proposal for a directive on the approximation of the Member States' laws concerning collective dismissal.

It has made this proposal after a comparison of the arrangements in force in the Community countries concerning collective dismissal, which has revealed noteworthy differences as regards conditions and procedure and also the measures that have been taken to attenuate the adverse consequences of dismissal for the workers.

The Commission considers that these important differences in the matter of the protection of workers in the event of collective dismissal have a direct repercussion on the functioning of the Common Market in that they create disparities in conditions of competition calculated to influence the decisions of undertakings - national or multinational - concerning the distribution of the jobs they require. In the Commission's estimation, it must be expected, for example, that any undertaking which is led to carry out a plan of internal reorganization involving the partial or total shutdown of certain establishments will make the choice of these establishments dependent, at least in part, on the level of protection of the workers. This situation, and others again, can exert a pressure which is contrary to social progress and even harmful for balanced overall and regional development within the Community because of the formation of regions with massive underemployment.

For all these reasons the Commission considers that it is necessary to eliminate the disparities noted by aligning the national provisions existing in this field. This does not imply that the autonomy of the two sides of industry must be called into question. Quite the contrary: the proposed directive considers this autonomy as the starting point and creates the framework which incites management and labour to engage in negotiations. True, it indicates clearly what the objectives of these negotiations should be, but it leaves the business of organizing them to the competence and sense of responsibilities of management and labour.

In its draft directives the Commission has deliberately confined itself to a few essential points inspired by the consideration that systematic joint action by the management of undertakings, the authorities and the representatives of the workers constitutes the best means of ensuring that Community rules concerning collective dismissal shall best correspond to their two objectives : the functions of social protection and of an economic regulator.

It is with this end in view that its proposal for a directive has been conceived. On the one hand, it is based on the provision and procedures in force in the Member States, while, on the other, it provides for the approximation of these in order to eliminate very divergent and even contradictory consequences.

The proposal comprises seven Articles. Article 1 lays down that any intention on the part of an employer to dismiss 10 or more workers for one or more reasons, notably economic or technical, and irrespective of the individual conduct of the workers in question, must be notified to the public authority.

Article 2 stipulates that :

1. Unless the competent public authority should rule to the contrary, the dismissals notified to it shall take effect one month after such notification, without prejudice to individual rights in the matter of periods of notice ;
2. This interval may be used by the public authority to seek solutions to the problems raised by the intended dismissals;
3. The competent public authority may extend this interval by one month, the employer to be informed of such extension within three weeks or the notification.

Article 3 lays down in particular that the competent public authority may oppose some or all of the dismissals notified if the reasons given therefor by the employer under Article 1 should be found on investigation to be untrue.

Article 4 regulates the procedure for consultation with the representatives of the workers of the undertaking concerned.

Article 5 specifies that Member States shall amend their legislation in accordance with the directive within a period of six months.

The last two Articles also concern the implementation of the directive. The Council of Ministers of Social Affairs, which met on 8th November 1972, decided to initiate the procedure and transmitted the proposal to the European Parliament and the Economic and Social Committee for their Opinions.

The Commission is pleased that, in this way, it has been possible to initiate with such rapidity the process of implementing this proposal.