

MASS LAYOFFS IN THE CZECH REPUBLIC AND SLOVAKIA

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Received: June 30, 2011

Abstract

DUDA, J. HRUBOVÁ, K.: *Mass layoffs in the Czech Republic and Slovakia*. Acta univ. agric. et silvic. Mendel. Brun., 2011, LIX, No. 7, pp. 105–110

The paper describes the legislative framework for mass layoffs. Among the important obligations of the employer in case of mass layoffs there belongs a previous announcement of the intention to employees, unions and the Labour Office. The paper analyzes particular cases within selected companies. Companies tried to avoid mass layoffs by reducing costs such as an elimination of selected employee benefits, shortening working hours, abolition of recruitment, etc. Businesses have also reduced employee training. When analyzing the process of mass layoffs, authors have built certain assumptions. Assumptions were divided into five groups dealing with the reasons for layoffs, employee selection criteria, layoff process itself, help for laid-off employees, and building a good reputation. The analysis proved correct approach of the employer and an effort to handle the challenging situation to everyone's satisfaction. The paper identifies the most common mistakes done in the lay-off process, which include specifically formal errors, like not defining the reasons of layoffs, absence of employer's representative signature, etc. Very important mistake can be considered insufficient communication of employers with employees. Problems in communication can cause useless nervousness of employees and subsequently also a lower performance of the whole business.

mass layoffs, financial crisis, employee

Financial crisis of the world economy, associated with a significant decrease in customer demand and subsequent difficulties in delimiting funds for investments and normal operation, force companies – regardless the industry of operation – to make organizational changes in the organizational structure, limit production and reduce costs. From the perspective of human resources, it usually means cancelling unnecessary positions and reducing the current number of employees. Extreme solution to the problem of redundancy is mass layoffs. Business managers have to deal with the question of how and whom to lay-off, but still maintain the business activity, but they also have to preserve the company reputation as a good employer and socially responsible employer.

Objective of this paper is to describe the methodology for mass layoffs and to analyze the process of mass layoffs in selected companies – Zetor Tractors, Inc., (hereinafter referred to as Zetor) operating in the CR and Continental Matador

Rubber Ltd., (hereinafter referred to as CMR) operating in Slovakia. Possible mistakes during mass layoffs were also identified.

MATERIALS AND METHODS

The paper utilizes standard methods of scientific work, which in particular include analysis, description, induction, deduction. There was also utilized the method of interviews with personnel managers of companies analyzed.

When analyzing the situation in enterprises there have been established several assumptions, which were divided into five groups.

1. Reasons for layoffs

Assumption: The main impetus for mass layoffs was the financial economic crisis.

2. Selection of workers

Assumption: Company selects candidates for layoffs on the basis of equal conditions for every employee.

3. Mass lay-offs process

Assumption: Employers inform about layoffs with a sufficient advance.

Assumption: Employer lays-off an employee in a sufficiently sensitive manner appropriate to the particular situation.

Assumption: Employees are adequately informed about their rights and obligations.

4. Employee care after lay-off

Assumption: Company assist laid-off employees in finding new jobs.

5. Building a good reputation

Assumption: Company strives to maintain a reputation in the minds of laid-off employees.

Literature sources used in the paper are listed in the bibliography.

RESULTS A DISCUSSION

Legal regulation of mass layoffs is based on Council Directive 98/59/EC from July 20, 1998, on the convergence of the laws of the Member States related to mass layoffs. The Directive contains two alternative definitions of mass layoffs. A Member State may in its legal system ground one or the other definition, but cannot exercise both of them together. According to the first definition of mass layoffs, the number of laid-off employees will depend on the total number of employees in the company (this option is used in the CR – in the period of 30 calendar-days a company will lay-off at least:

- 10 employees if the employer employs from 20 to 100 employees,
- or 10 % of employees if the employer employs from 101 to 300 employees,
- or 30 employees if the employer employs more than 300 employees.).

According to the second definition, decisive is the period of time within 90 days in which the employer lays-off at least 20 employees (this option is used in Slovakia).

Layoffs are considered to be mass if the employer terminates employment contracts on the basis of testimony given by employers to employees for organizational reasons listed in the provisions of par. 52 letter a) to c) of the Czech Labour Code, Act 262/2006, and par. 63 letter a) and b) of the Slovak Labour Code, Act 311/2001:

- if the employer or its part is liquidated,
- if the employer or its part moves,
- if the employee becomes redundant due to the employer's or a competent authority's decision to change its tasks, technical equipment, reduction of the number of employees in order to increase efficiency of work or other organizational changes.

Procedure and the employer's obligations connected with mass layoffs

According to the Act No. 262/2006, Labour Code, prior to dismissal of individual employees an

employer is obliged to inform the Labour unions or employee council (or employees themselves) about his intention at least 30 days in advance in written form. Employer is obliged to inform about:

- reasons for mass layoffs,
- number and profession-structure of employees to be laid-off,
- number and profession-structure of all employees who are employed by the employer,
- time in which the mass layoff is to be carried out,
- proposed criteria for selection of employees to be laid-off,
- severance pay or other rights of laid-off employees.

The employer is also obliged to provably deliver to the competent Labour Office (from April 1, 2011, the competent Labour Office is considered the regional branch of the Labour Office of the CR relevant according to the employers place of operation) a written report called "Information No. 1" about its decision on mass layoff and the results of negotiations with the trade union or council of employees. The report must also indicate the total number of laid-off employees and their profession-structure. One copy of this report is sent to the trade union or council of employees. The employer, on which the decision on bankruptcy was issued, has to deliver a written report to the labour office only upon request. In the case when trade union or employee council is not established or does not operate, the employer is obliged to fulfil the particular obligations to every employee subject to it, including the announcement of the written report for the labour office.

The employer consults with the labour office possible measures to prevent mass layoffs. This negotiation is recorded by the labour office and the "Record from debate of mass layoffs" is signed by participating parties. Dismissal notice connected with mass layoffs can be only given to an employee after at least one month from the moment, when the labour office receives the written "Information No. 1".

Changes in mass layoffs have to be reported by the employer to the labour office in "Information No. 2". Regularly on a monthly basis, the employer sends to the labour office the information on the number and structure of laid-off employees. Termination of mass layoffs is reported by the employer to the Labour Office in a written form.

When being laid-off due to liquidation or moving of the employer, or organizational reasons, employees in the Czech Republic are eligible to receive the severance pay of at least three-month average earnings equivalent.

In Slovakia the eligibility for severance pay relates to every employee, who is laid-off due to the organizational changes or redundancy. Severance pay represents at least twice the amount of the average monthly earnings. If the employment with the employer lasted at least five years, the severance pay represents at least three times the average

monthly earnings (par. 76 LC). Similarly, different concept is also the notice period. Czech Labour Code stipulates a notice period of at least 2 months. Slovak Labour Code sets the minimum notice period also for 2 months, but if the employment with the employer lasted at least five years, the notice period extends to at least 3 months.

Solution of a crisis in the analyzed companies

The company can solve the problem of lack of sales, decline in demand and thus difficulties in obtaining funds in various ways. The following selected measures focusing on cost cutting against the effects of the global financial crisis has been analyzed by the authors based on interviews with personnel managers.

Selected areas where costs can be reduced:

1. Changes in monetary remuneration / wage cuts.
2. Cancellation / reduction of employee- and other benefits.
3. Reduction of training and education.
4. Suspension of recruitment.
5. Part-time / shortening working week.

Ad 1) Changes in remuneration / wage cuts

The most common way to reduce costs is to reduce wages. Significant reduction of wages was done in the fields dealing with trade and marketing (Finance. cz, 2010). Fields, where there was a minimal change in remuneration include IT, finance and accounting.

CMR Company is strategically managed from headquarters, which is in Germany. It was decided that the company within reducing costs in times of crisis, will not freeze the wages. Wages did not decrease. In case of Zetor each department has its own manager, who could agree in the particular division on reducing or freezing wages. Two of the departments have agreed to reduce wages by about 11 % and there was no reason for layoffs.

Ad 2) Employee- and other benefits

Constraints of the offer in the area of employee benefits were one of the common solutions to reduce costs. A study by ING (Šíbal, 2009) identified the most frequently cut benefits – contribution to the transportation, vacation allowance, additional wages. Survey Merces.cz by PROFESIA Company (Professia, 2010) confirms this trend and provides other benefits which were limited – provision of drinks in the workplace, support of sport and culture, contribution to pension insurance.

The anti-crisis measures in CMR included elimination of the 13th and 14th wages. Target bonuses were also not paid to employees, and there was also a decrease in purchases of raw materials. The company have only bought the basic inputs ensuring running of the business. The training budget has decreased by 25 %. The personal development activities were abolished. No development-focused activities were carried out.

The opposite situation was in Zetor. Employee benefits mostly remained unchanged. Employees

kept the benefits such as: eating in the canteen, cheaper calls within Telefónica, contribution to pension savings, contribution to the summer and winter holidays, and there was also no reduction of the number of kilometres for private use of company cars by company management. They have only reduced the budget for teambuilding and corporate events.

Ad 3) Employee training

Employee development is one of the major factors affecting the success, competitiveness and prosperity of a company. Reducing the cost of training employees may cause adverse effects in the future. It may cause a decreased competitiveness of a company.

Even in the case of CMR the training budget was reduced by 25 %. Language training, though, still remained in the company, only trainings on personal development and other skills were cancelled. The training costs connected with changing regulatory requirements were not reduced, as well.

Zetor kept the compulsory training connected with legal requirements, other trainings were abolished. Before the financial crisis language courses for employees were started, but during the crisis they were abolished, and Zetor does not plan to renew them, at the moment.

Ad 4) Recruitment

Recruitment in CMR was completely abolished, and the company addressed only the situations, when it was necessary to replace employees, who themselves ended the employment voluntarily. In these cases there were used employees from internal sources. Also at Zetor hiring was completely stopped, and new employees were recruited only as a replacement for long-term sick leave or voluntary departure.

Ad 5) Part-time jobs

Labour Code No. 262/2006, allows the use of a new opportunity in the organization of working hours in connection with the economic crisis. Companies can use so-called working time accounts, which allow employers the flexibility to adjust working hours and assign work according to their production capabilities. Company solves fluctuations or decline in production and does not have to lay-off employees.

CMR has shortened the monthly working hours by about 4 days a month. It was agreed that it will be Fridays. During these days employees were paid 60 % of the average daily wage.

A similar situation was also in Zetor. Employees worked only four days a week, the fifth day was paid by 70 % of the average daily wage.

It is important to note that within the layoffs at CMR only parts of the employer (divisions) were eliminated, and the jobs and employees could find jobs in other divisions of the employer. Mass layoffs took place in two waves; in the second wave one of the divisions was completely closed. Thus, employees were not laid-off in other parts of the

company. In contrast, at Zetor there were mass layoffs across the whole company and they included workers from different divisions.

When analyzing the situation in enterprises there have been established assumptions, which were divided into five groups (see Material and methods). The first assumption is that the impetus to mass layoffs was negative consequences of economic crisis and consequently reduces production. The assumption of the reasons that led to mass layoffs was confirmed. Layoffs are really caused by the economic crisis, effects of which in manufacturing and agricultural sector worldwide reduced the demand for products of both companies. These, in an effort to maintain the operation of the company moved to reduce costs through mass layoffs. In the field of employee selection there has been formulated the assumption that the company selects candidates for layoffs on the basis of equal conditions for all employees. This assumption is confirmed, as well – employees to be laid-off were selected on the basis of well thought-out criteria that were applied to each individual in the same way. The companies have followed long-term performance of individual employees.

In the case of CMR layoffs and subsequent closing of a division took place in two waves, and therefore the selection of redundant employees has to be divided into two parts. In the first part, there were laid-off sixty employees. Individual managers were assessing their employees taking into account their performance, knowledge, competence, expertise, and language skills. In decision-making, however, they took into account also the social background of employees (being breadwinners) as well as health issues. In September there was a second wave of layoffs, when there were cancelled all the jobs in the division and all employees were laid-off.

In Zetor the mass layoffs were done on the basis of two criteria: quality and replaceability. In the first stage, there were laid-off employees with poor work moral. In subsequent waves of layoffs, however, there had to be selected also qualified and good employees. Main parameters for layoffs included the following:

- Retain employees who are able to hold more activities, more positions.
- In the case of family members not to lay-off both, but only one employee.
- Lay-off employees who already have or soon will be eligible for a pension.

In the process of mass layoffs there were set three assumptions. The first of them was that employers inform about the layoffs with a sufficiently long advance. Employers have not failed at this point, and the assumption was confirmed. Both companies had previously planned organizational changes, and so they could build a suitable schedule so that they can lay-off within the time limits stipulated by law and to keep the business activities. Employees at CMR and Zetor were informed exactly within the time

limits given by the law. A significant area that should be paid attention to is the sensitivity of the method of layoffs. There was established a presumption that the employer lays-off an employee in a sufficiently sensitive manner the situation requires.

Managers of the analyzed companies agreed that they tried to approach the employees individually as equal persons and not as a superior to subordinate. They tried to understand them and were instrumental in finding answers to their questions. Of course, sometimes it was not without emotions, but a psychologist's intervention was not necessary. For both companies the situation was dealt with on an individual basis.

An important area related to the actual process of mass layoffs is to provide sufficient information about employees' rights and obligations. Here, the assumption was set that the employees were adequately informed about their rights and obligations. Also, this assumption was confirmed. Firms did their best to realize the mass layoffs smoothly, even in terms of administration. Therefore they have provided all the information available to the laid-off employees through a manual. CMR also invited workers from the Labour Office to help the laid-off employees.

In the field of employee care after layoff there was established the assumption that the company helps laid-off workers to find a new job. CMR does not hire an outplacement agency, and offers these services within its own HR department, which helps the employees to prepare their CVs. HR department, also provided contacts to employment agencies. Unfortunately, the situation in the engineering industry was bad, and companies in the neighbourhood of CMR were forced to lay-off, as well.

In case of Zetor, the company provided just a contact to employment agencies.

Currently, careful attention is being paid to external relations of businesses, which specifically includes public awareness of the corporate culture. Specifically the act of layoffs is often a critical point, where former employees who feel offended, disperse negative impression about the particular company. It is therefore necessary to part with the laid-off employees leaving a feeling of fair and honest conduct. Based on this aim, there was formulated another assumption that the company tries to maintain a good reputation in the minds of laid-off employees. CMR have focused on two major things. The first one was clear and open communication, accurate information about what is going follow, what are the legislative procedures. And the second was a guarantee that if there will open new working places in the future, the laid-off employees will be contacted first. This guarantee was confirmed in 2011, when the company recruited new people. Zetor have chosen a similar strategy, too.

The whole process of layoffs was necessary, and has delivered a release from redundant,

unproductive employees and activities. Ultimately, it had a positive impact and companies are beginning to recruit new employees, again.

The most frequently reported errors and mistakes during mass layoffs:

- Employer did not include the signature of its representative in the dismissal. Missing signature causes nullity of the dismissal for lack of form.
- The employer failed to identify the exact reason for the layoff. The reason for layoff must be clear and specific. If it is not, then there must be a clear expression of will.
- Dismissal was not “delivered into the employee’s hands”. Dismissal is often not delivered to the employee’s own hands, and therefore it can be considered invalid.
- Lack of communication. The big mistake managers make is waiting with the notification of organizational changes until the last moment. Thus they encourage formation of a negative environment and atmosphere of uncertainty that also adversely affects the work performance.
- Employer improperly qualified the dismissal period. It is not decisive, how the employer have qualified the reason for layoff, but it is a matter of a court to determine which of the reasons specified in the law is applicable and derive the necessary notice period.
- For validity of the dismissal it is said to be necessary that at the time of its issue, organizational changes have to be already implemented. It is not true. It is necessary, that they have already been decided, at the moment of issue of the dismissal, and in the near future the employee will become redundant as a result of these changes.
- Employers are afraid to lay off because of organizational changes because they have not issued a written decision on them. Decisions on organizational changes do not need to be written, because it is not a legal act, but the physical legal condition of validity of the dismissal.
- Employee argues that the dismissal for redundancy should have been given to another employee. Choice of the employee is the responsibility of the employer, and the court does not question this decision.

SUMMARY

Companies in order to prevent or completely bypass mass layoffs reacted; for example, by not occupying new jobs from external sources, but only from internal sources. Companies did not occupy jobs that became vacant due to retirement of current employees. Employees were transferred to other jobs, even at the cost of retraining. Also the employments in the probation period have been abolished. There have been reduced overtimes of employees and selected employees have signed an agreement on early retirement. In both companies there were changes that helped them to reduce costs, but ultimately did not prevent layoffs. Companies complied with all formalities required by law. There was an effort to make the process of mass layoffs with the least impact on businesses and employees.

The paper describes the legislative framework for mass layoffs. Among the important obligations of the employer in cases of mass layoffs there belongs a certain time advance of informing employees, unions and the Labour Office about upcoming layoffs. There are analyzed measures taken by particular companies. Companies tried to avoid mass layoffs by reducing costs through measures like elimination of selected employee benefits, shortening working hours, recruitment from internal sources, etc. They have also cut down the costs on employee training. When analyzing the procedures of mass layoffs, certain assumptions were established. Assumptions were divided into five groups dealing with the reasons for layoffs and employee selection criteria. Other assumptions were set in the layoff process itself, in helping redundant employees and building a good reputation. The analysis proved correct approach of employers and an effort to handle the challenging situation to everyone’s satisfaction. The paper identified the most common errors, which include formal errors such as not defining the reason of layoffs, absence of the signature of the employer’s representative. Insufficient communication between employers and employees can be considered as a significant error, as well. Problems in communication can cause unnecessary nervousness, which can lead to a decreased performance.

Acknowledgement

The paper was prepared thanks to the support from MSM 6215648904 “Czech economy is in the process of integration and globalization and the development of agrarian sector services in the new conditions of European integrated market”.

REFERENCES

- Finance.cz, 2010: Mzdy v ČR se snížily až na úroveň roku 2007. [on-line]. [quot. 2011-04-17]. Cited from: <<http://www.financninoviny.cz/kariera/zpravy/mzdy-v-cr-se-snizily-az-na-uroven-roku-2007/442803>>.
- MPSVR SR, 2011: MPSVR SR podáva pomocnú ruku všetkým občanom, ktorí stratili prácu z dôvodu hromadného prepúšťania. [on-line]. [quot. 2011-05-17]. Cited from: <<http://www.internetoviny.sk/spravy-z-domova/1418-mpsvr-sr-podava-pomocnu-ruku-vsetkym-obcanom-ktori-stratili-pracu-z-dovodu-hromadneho-prepusťania.html>>.
- Profesia, 2010: Zaměstnavatelé nadále omezují benefity. [on-line]. [quot. 2011-04-17]. Cited from: <<http://www.platy.cz/analyzy/zamestnavatele-nadale-omezuji-benefit/42638>>.
- ŠÍBAL, J., 2009: Jak krize ovlivňuje zaměstnanecké výhody. [on-line]. [quot. 2011-05-07]. Cited from: <www.apss.cz/files/280509_prezentace_20ING_Vyzkum_zamestnaneckych_vyhod.pdf>.
- Labour Code, Act No. 262/2006, Czech Republic.
- Labour Code, Act No. 311/2001, Slovak Republic.

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