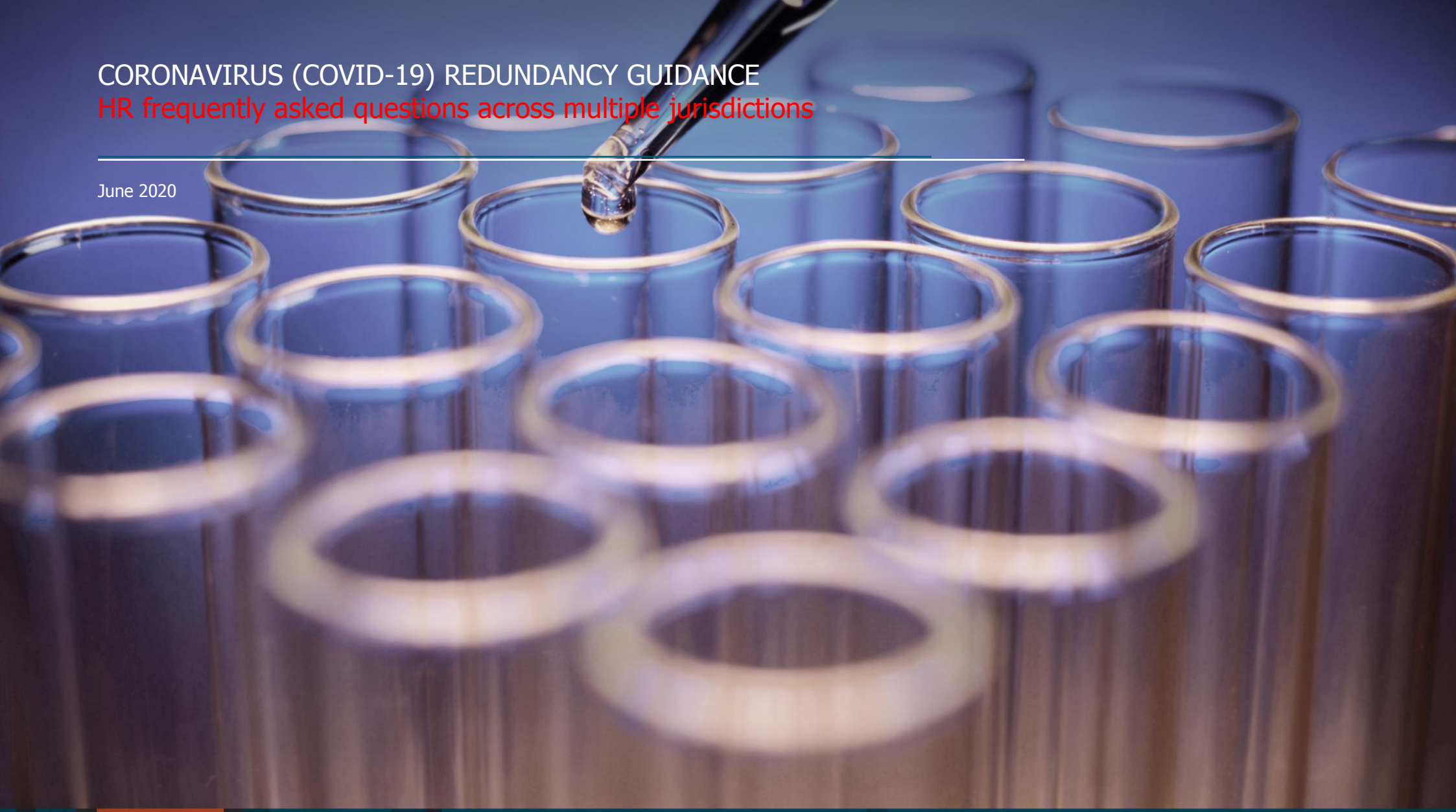

CORONAVIRUS (COVID-19) REDUNDANCY GUIDANCE

HR frequently asked questions across multiple jurisdictions

June 2020

BRYAN CAVE LEIGHTON PAISNER BCLP

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BRYAN CAVE LEIGHTON PAISNER LLP

BRYAN CAVE LEIGHTON PAISNER BCLP

CORONAVIRUS (COVID-19) REDUNDANCY GUIDANCE

UNITED KINGDOM – Mark Kaye (Mark.Kaye@bclplaw.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The Coronavirus Job Retention Scheme (the "**Scheme**") does not include any prohibitions on an employer ultimately dismissing employees despite having obtained the benefit of the Scheme.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. Employees who have at least 2 years of continuous employment have the right not to be unfairly dismissed. Redundancy is a potentially fair reason for dismissal. However, an employer must also ensure that it follows a fair process when carrying out such a dismissal. For example, objective selection criteria must be used, employees must be consulted and redeployment opportunities must be considered. If an employee is unfairly dismissed, an employment tribunal can award compensation (based on loss of earnings and subject to an obligation on the employee to take reasonable steps to mitigate loss) of up to one year's salary (currently capped at £88,519).
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who have at least 2 years of continuous employment are entitled to statutory redundancy pay. This is calculated by reference to age and length of service and is based on a week's pay (currently capped at £538). The maximum statutory redundancy payment that an employer is liable to pay to each employee is currently £16,140 (this limit increases in April each year). If an employer operates an enhanced contractual redundancy scheme, it will also need to be mindful of its obligations under that scheme. Even if such a scheme is non-contractual, employees may seek to argue that they have an entitlement under it. Employees who are dismissed by reason of redundancy are entitled to their notice pay.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. This is particularly the case in relation to employees who have unfair dismissal rights. An employer should (at least) consider furloughing employees under the Scheme before taking steps to dismiss them by reason of redundancy. Failure to do so may expose the employer to a successful unfair dismissal claim.
Are employers subject to separate collective consultation obligations?	Yes. Where an employer is proposing to dismiss 20 or more employees at one establishment within a 90 day period, it must comply with collective redundancy consultation obligations under the Trade Union and Labour Relations (Consolidation) Act 1992 (the "**Act**"). Consultation must be carried out with elected representatives (or a recognised trade union if one is in place) for at least 30 days prior to the first dismissal (at least 45 days prior to the first dismissal if 100 of more redundancies are being proposed). Consultation must be meaningful and with a view to reaching agreement.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	The Act includes a "special circumstances" defence. This is limited in scope and historically has rarely been successfully used. At present there is no case law or other official guidance about whether the general business impact of Coronavirus would amount to "special circumstances", but given the right set of facts an employer may be able to rely on it. However, where affected employees are furloughed under the Scheme, employers are likely to be given little sympathy by an employment tribunal should they seek to rely on the "special circumstances" defence.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	The employment tribunal can make a protective award of up to 90 days gross uncapped pay in respect of each affected employee. This is a penal award and, therefore, the starting point is the full amount, unless there are mitigating circumstances. In addition, failure to comply with the obligation to submit a Form HR1 to the Secretary of State is a criminal offence for which an unlimited fine can be imposed.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns. However, if such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract, constructive dismissal, unlawful deduction from wages etc.). Introducing such changes may also trigger collective consultation obligations. An employer can also seek to lay-off employees or introduce short-time working. However, if employees are laid-off or put on short-time working in circumstances where the employer does not have the contractual right to do so, an employer will be in fundamental breach of contract entitling the employee to resign and claim constructive dismissal.

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UNITED STATES – Charles Jellinek (cbjellinek@bryancave.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Not directly. However, employers are prohibited from dismissing employees because they took government-subsidised paid leave under the federal Families First Coronavirus Response Act. In addition, the dismissal of employees may negatively impact an employer's ability to have government loans forgiven under the Paycheck Protection Program of the federal CARES Act.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. Absent a contract of employment, most jurisdictions in the United States follow the doctrine of 'at-will employment'. There are no statutory protections from layoff, reduction-in-force, or redundancy based on time of service.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Absent a contract of employment, and unless an employer has a severance plan it must follow, there are no compensation obligations to an employee who is dismissed as part of a layoff, reduction-in-force or redundancy. Employees separated as part of a layoff, reduction-in-force or redundancy are likely to be entitled to state unemployment compensation. Currently, there is enhanced unemployment compensation available (an additional USD 600 per week beyond the regular entitlement) until the end of July 2020, as a consequence of the passage of the federal CARES Act.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes, in circumstances where an employer benefits from a program, such as a Paycheck Protection Act loan (as implemented through the recently passed federal CARES Act). This program permits smaller employers to apply for a forgivable loan, provided certain conditions are met which include using the loan proceeds to maintain payroll at a certain level. Failure to maintain payroll or use 75% of the loan proceeds to maintain payroll could result in the loan losing forgivable status.
Are employers subject to separate collective consultation obligations?	If an employer has a workforce with a union or collective bargaining agent, in some circumstances, pursuant to the National Labor Relations Act, there are requirements to engage in discussions with the union when implementing a reduction-in-force, mass layoff, or plant shut down. In the context of cessation of operations altogether, there is an obligation to engage in what is known as "effects bargaining" with the union or collective bargaining agent.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	Depending upon the terms of an employer's collective bargaining agreement, certain areas may be so thoroughly covered (through the applicable "management rights" clause or other provisions) that there is no obligation to consult or discuss. If there is an obligation to engage in "effects bargaining" as a consequence of a complete cessation of business or plant shut down, there is generally no defence for a failure to engage in that bargaining.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	An employer with a union or collective bargaining agent that fails to engage in required bargaining may be subjected to an Unfair Labor Practice ("**ULP**") charge with the National Labor Relations Board. The Board has the authority to order various remedies including injunctions and bargaining orders, among others.
What alternatives to redundancy dismissal are open to an employer?	A number of alternatives might be considered before layoff, reduction-in-force or redundancy. Such alternatives might include: (i) salary or compensation reductions (subject to advance notice and any minimum wage and salary requirements under federal and state law); (ii) reduction of work hours; and (iii) voluntary, temporary, or staggered furloughs; (iv) voluntary retirement or other exit incentive programs; and (v) other non-labour cost saving measures.

ALBANIA – Ralf.Peschek@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No, there is no special statutory protection. However, certain categories of employees may have special protection against dismissal, these include trade union representatives, employees on maternity or parental leave and employees on sick leave or annual leave.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who have at least 3 years' continuous employment with the same employer are entitled to seniority compensation in the event of a redundancy dismissal. Severance compensation is calculated as: 15 days' salary for each completed year of employment (calculated by reference to the last salary received by the employee). If the termination is by mutual agreement, employees are not entitled to severance compensation. In the event of redundancy, an employer must observe and comply with the employee's notice period, varying from 2 weeks up to 3 months depending on the employee's length of service. During the notice period, employees are entitled to their normal salary, social and health contributions and any applicable bonus.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	The dismissal should be the last resort and an employer should consider other options such as applying for benefits under the Sovran Guarantee Fund. The government has approved a state guarantee for bank loans taken out by employers for the sole purpose of paying salaries and social and health contributions for a period of three months. Salaries higher than ALL 150,000 are excluded from the government guarantee.
Are employers subject to separate collective consultation obligations?	Yes. Collective consultation is mandatory if dismissals meet the "collective dismissal" threshold. The threshold for collective dismissal is the termination for reasons unrelated to an employee, within a 90 day period, of at least: 10 employees in an enterprise with up to 100 employees; 15 employees in an enterprise with up to 100-200 employees and 20 employees in an enterprise with more than 200 employees. If an employer is contemplating collective dismissal, the employer is obliged to consult with the trade union recognised as the representative of the employees or, in its absence, with the employees themselves. Consultation should take place for at least 30 days and an employer must notify the competent authorities, i.e. the Ministry of Finances, in writing of any collective dismissal proposal and provide information on the proposal details and the consultation. The Ministry are able to help the parties reach an agreement, but cannot stop collective dismissals taking place.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	In the event of a failure to comply with its consultation obligations, an employer will be required to compensate each dismissed employee with up to 6 months' salary (in addition to their notice pay).
What alternatives to redundancy dismissal are open to an employer?	An employer may opt for a reduction in salary or working hours. However, as this would lead to substantial changes to the contractual terms, the written consent of the employees is required. If such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract and unlawful deduction from wages). If there is a bargaining agreement in place, the written consent of trade unions is required. An employer may also encourage employees to opt for time off as paid annual leave or unpaid leave.

AUSTRALIA – SHarben@claytonutz.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The Job Keeper Payment Scheme (the "**Scheme**") does not include any prohibitions on an employer ultimately dismissing employees despite having obtained the benefit of the Scheme.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. Unfair Dismissal does not apply to a 'genuine redundancy', which arises when it can be demonstrated that: (i) the employer no longer requires the role to be performed due to changes in business operational requirements; (ii) the employer has complied with any consultation obligations prescribed by an applicable modern award or enterprise agreement (see below); and (iii) it was not reasonable in all the circumstances for the employee to be redeployed within the employer's enterprise or the enterprise of an associated entity. Employers may be subject to other statutory claims, such as Discrimination or General Protections, (unless they can establish that the dismissal was not for a discriminatory reason) or because the employee had a workplace right (e.g. a right to seek sick leave, a right to make a safety complaint etc.).
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who have at least 1 year of continuous employment are entitled to statutory redundancy pay. This is calculated by reference to length of service and is based on a week's base pay. This ranges from 4 weeks' pay (1 - 2 years' continuous service) to 16 weeks' pay (more than 9 years' continuous service). If there is a workplace redundancy policy, an employer will need to be mindful of its obligations under it. Even if such a policy is non-contractual, employees may seek to argue that they have an entitlement under it. Employees who are dismissed by reason of redundancy are also entitled to be given notice or be paid in lieu of notice.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Where employees can bring an Unfair Dismissal claim, a consideration by the relevant tribunal (the Fair Work Commission) in determining whether the dismissal was "harsh, unjust or unreasonable" may include whether alternatives to dismissal were available to the employer (such as JobKeeper payments). For a General Protections claim, temporary legislative amendments clarify that an entitlement under the Scheme is a workplace right and any adverse action taken by an employer for reasons that included the employee having that workplace right give rise to a claim.
Are employers subject to separate collective consultation obligations?	Yes, if employees are subject to a modern award or an enterprise agreement that requires consultation. Every modern award contains a standard consultation clause that stipulates that employers must consult with employees and their representatives if the employer has made a decision to introduce a major change that is likely to have a significant effect on employees. An employer must notify and discuss the proposed change with impacted employees and their representatives and provide information in writing to them as soon as practicable after a decision has been made. Employers must then give prompt consideration to matters raised by employees and their representatives in relation to the change.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	If consultation is not carried out, the dismissal will not be a 'genuine redundancy' and the Unfair Dismissal jurisdiction will apply (provided other prerequisites are satisfied). In determining an Unfair Dismissal claim, the Fair Work Commission is likely consider whether consultation would have avoided the dismissal. If it would not have, an order of reinstatement or compensation may be unlikely.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	As noted above, the 'genuine redundancy' exclusion from the Unfair Dismissal jurisdiction would not apply. Depending on the source and nature of the consultation requirement, it may be possible for employees or their representatives to seek orders from the Fair Work Commission requiring the employer to consult prior to dismissing or to apply to a court in respect of an employer's breach of a consultation term under a modern award or enterprise agreement, which may trigger civil penalties. The likelihood of these applications or any sanctions would depend on the circumstances.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek salary reductions or changes to existing terms and conditions, with employee consent, provided minimum statutory and modern award/ enterprise agreement conditions are met. An employer may make some changes without employee consent. If there is a stoppage of work outside the employer's control, and an employee cannot usefully be employed, the employee can be stood down from work without pay. Temporary amendments have also been made to some modern awards that allow for reductions in working hours up to prescribed amounts or with employee approval (by vote). The most fundamental temporary changes have been made for employers participating in the Scheme which provides that employers can make a wide range of directions to stand employees down in whole or part; reduce hours and/or change duties and locations of employment, provided each eligible employee is paid the minimum Job Keeper subsidy of AU 1,500 per fortnight.

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Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. The Covid-19 Short-Time Work ("**STW**") scheme has a specific obligation to preserve the number of employees during the period of short time work and one month after the STW scheme has ended. During this time, terminations are, generally, not possible, apart from in certain limited circumstances and can create an obligation for the employer to replenish the work force. Employers with more than 250 employees as of 31 December 2019 and who choose to terminate employees instead of making use of the STW scheme are not eligible for state fixed cost subsidies ("*Fixkostenzuschuss*"). Other state support measures do not, generally, prohibit employers laying-off employees in order to be eligible for government subsidies.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. However, if an employee challenges the termination in court, the employer would have to justify the termination on personal or business-related grounds. The general protection against termination ("*allgemeiner Kündigungsschutz*") involves a complicated procedure in order to assess whether the termination is valid (even where the employer has a fair reason). The interests of the employer and those of the employee must be weighed against each other. In particular, employees who are approximately 45 years of age or over have a substantial chance of reinstatement if they challenge their termination on social consideration grounds. Separately, certain groups of employees enjoy special protection against termination. These include, for example, pregnant women, employees on parental leave or on parental part time until their child's 4th birthday, WC members, or disabled employees. The termination of a specially protected employee often requires the prior consent of the competent court or authority.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	There is no direct severance payment applicable to employees whose employment commenced on or after 1 January 2003. Instead, for the duration of their employment, the employers make monthly contributions into a severance fund equal to 1.53% of monthly salary. Employees then have an entitlement to a portion of the fund on termination. Employees whose employment commenced before 1 January 2003 are entitled to a statutory severance payment on redundancy with the amount depending on their length of service. The maximum payment is an amount equivalent to 12 months' salary. In the context of collective redundancies, voluntary severance payments may also be paid to employees to mitigate the negative impact of the job loss. Voluntary payments are also common in individual mutual dissolution agreements linked to a general waiver of all claims against the employer (including any challenge to the validity of the termination).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes, in particular the STW scheme in relation to temporary reduction of normal working hours and salary. This scheme provides for financial state aid to compensate for the (partial) loss of salary.
Are employers subject to separate collective consultation obligations?	Yes, the employer must notify Austrian Labour Market Service ("**AMS**") in writing of a mass dismissal a minimum of 30 days before giving notice of termination. This provision applies if the employer intends to dismiss at least; (i) 5 employees in a business with more than 20 and fewer than 100 employees; (ii) 5% of the employees in a business with 100 to 600 employees; (iii) 30 employees in a business with more than 600 employees and (iv) 5 employees aged 50 or older in any business. If the threshold for a mass dismissal is met, the works council (if any) must be informed of the scope of the planned changes in advance and collaborate with the employer in notifying the AMS. The notification triggers a 30-day blocking period during which any dismissals and mutual terminations are prohibited.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. The notice requirement also applies in the event of insolvency or seasonal breaks. Exceptionally, termination notices may be given before the 30 day blocking period has ended with the prior consent of the competent AMS. This exception may only be granted in cases of important economic reasons (e.g. if other jobs would be at risk unless the terminations are carried out before the 30 day blocking period has ended).
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Any dismissal and/or mutual termination during the 30-day blocking period after the filing of the notification with the AMS is generally null and void. Furthermore, if the employer does not comply with the obligation to inform the works council (if any) in advance of such a collective dismissal and does not initiate the necessary consultation, administrative fines of up to EUR 2,180 can be applied.
What alternatives to redundancy dismissal are open to an employer?	The employer and the employee may mutually agree temporary reductions in working hours without using the STW scheme; postpone or suspend bonus payments or reduce salaries. However, employee consent will usually be required. If no agreement is reached, an employer can unilaterally change the terms and conditions of employment contracts by way of a so-called *Änderungskündigung* (termination for variation). Essentially, employees are "threatened" with termination unless they agree to the proposed amendments to their contracts. Such *Änderungskündigungen* may trigger the above-mentioned collective consultation obligations and employees may be able to challenge the validity of the termination.

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Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. There is no indication that legislation will be introduced that would prohibit an employer from dismissing an employee in circumstances where the employer has obtained the benefit of the Coronavirus government support (i.e. the system of temporary unemployment for 'force majeure' relating to Coronavirus).
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. However, in Belgium "redundancy dismissal" is not really a relevant concept.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employee who is dismissed for economic, technical or organisational reasons is entitled to the same severance compensation as an employee who is dismissed for other reasons. This severance compensation takes the form of a payment in lieu of notice. The notice period or the corresponding indemnity in lieu of notice depends on the employee's seniority within the company. However, particularly in cases of "collective dismissal" (see below), additional payments are, generally, payable to dismissed employees in the framework of a "social plan" negotiated with the employee representatives (and the trade unions).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	No. The employer is not obliged to make use of the Coronavirus government support (i.e. the system of temporary unemployment) before dismissing any employee for economic, technical or organisational reasons that are related to Coronavirus. However, making use of the current system of temporary unemployment may help the employer avoid or minimise dismissals.
Are employers subject to separate collective consultation obligations?	Yes. This is particularly the case for companies employing at least 20 employees on average (in the preceding calendar year) that proceed with a "collective dismissal". For companies employing 20 - 100 employees (in the preceding calendar year), there would be a "collective dismissal" if, during any 60-day period, notice of termination is given to more than 9 employees. For companies employing 100 but less than 300 employees on average, the trigger is 10% of the workforce and for those employing 300 or more on average, the trigger is 30 dismissals. It is only possible to make the decision to proceed with a "collective dismissal" (and to start with the implementation of this decision), after first completing any collective information and consultation procedure with the elected employee representatives (or with the employees themselves). This process can often take several months. Employers should also be aware that, depending on the joint committee that is competent for the company, there could also be sector-level obligations.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	The most significant consequence of an employer's failure to comply with its information and consultation obligations is that the employees who have been made redundant could request reinstatement (if the employer did not consult properly) and would then remain employed until the information and consultation process is carried out properly. Failure to properly inform and consult can also trigger damages (the amount of which is not set by law, but there is a case where the labour court granted EUR 5,000 to all employees who were made redundant) and even criminal penalties which may render the employer (or the employer's representative, servant or agent) liable to fines of up to EUR 4,000 per each impacted employee (but criminal prosecution is rather rare in practice). Strict compliance with the consultation obligations is also strongly recommended from a 'tactical' perspective as any failure may be seized by the employee representatives (or trade unions) to 'hijack' the process in order to enforce a very expensive 'social plan'.
What alternatives to redundancy dismissal are open to an employer?	Apart from relying on the system (s) of temporary unemployment (which can temporarily help to reduce salary costs), an employer can also seek to reduce salaries (or benefits) or working hours. However, such changes would only be possible if the employees agree to the change at an individual level or at the collective level (by means of a company-level collective bargaining agreement). Unilaterally implementing the changes would enable the employees to claim constructive dismissal (entitling them to full severance).

BOSNIA & HERZEGOVINA – Lana.Sarajlic@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. Employers are not prohibited from dismissing employees in order to be eligible for subsidies under current legislation or proposed laws. However, it is likely that the expected introduction of legislation to provide government subsidies for employers will place restrictions on dismissals as one of the eligibility criteria.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. Generally, an employer has discretion to select employees for redundancy. However, it is advisable to apply objective and non-discriminatory criteria. An employer must also consider whether an employee can be transferred to a different workplace or is qualified for a different role. For the Republic of Srpska (***RS***) territory, the criteria for selecting those employees to be made redundant cannot be based on absence from work due to a temporary inability to work, pregnancy, parental leave, childcare or special childcare. The workers' council or trade union need to be informed and consulted in relation to mass redundancies for the territory of Federation of BiH (***FBiH***), RS and Brcko District BiH (***BD***) and prior approval is required in the event of the dismissal of certain categories of employees. These include, for example, members of the workers' council, an employee with a disability or an imminent risk of disability, or an employee older than 55 years of age and female employees older than 50 years of age.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees with at least 2 years continuous employment (based on an indefinite period employment agreement) are entitled to statutory severance pay. This is calculated by reference to length of service. The minimum statutory severance payment an employer is liable to pay amounts to 1/3 of the average monthly salary of the employee over the previous 3 months multiplied by each completed year of employment. Statutory severance pay cannot exceed 6 average months' salary based on the salary paid to the employee in the last 3 months preceding the dismissal. However, the employer and employee may agree to an alternative payment by written agreement.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Even though currently there are no government support schemes that employers can use in order to mitigate the negative consequences caused by the Coronavirus, there are certain relief measures for the private sector and industries which have ceased operations due to the Coronavirus. Once such schemes are adopted, employers should consider using them before taking steps to dismiss employees by reason of redundancy. Failure to do so may expose the employer to a successful unfair dismissal claim.
Are employers subject to separate collective consultation obligations?	Yes. Where an employer with a certain number of employees intends to dismiss employees due to economic, technical or organisational reasons within a 90 day period, the employer is obliged to conduct a consultation process. In respect of FBiH, RS and BD there are the following different thresholds that trigger the consultation obligation: (i) for the territory of FBiH, the employment of more than 30 employees and the intention to dismiss at least 5 employees; (ii) for the territory of RS, the employment of more than 30 and up to 300 employees and the intention to dismiss at least 10 to 30 employees; and (iii) for the territory of BD, the employment of more than 15 employees and the intention to dismiss more than 20% of employees. The workers' council or trade union need to be informed and consulted in relation to mass redundancies for the territory of FBiH, RS and BD and prior approval is required in the event of the dismissal of certain categories of employees (please see above).
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. Failure to inform and consult the workers' council or trade union renders the dismissal null and void and it can trigger fines (see below). There is no a statutory obligation for employees to establish a workers' council and/or trade union and, in practice, the consultation process may be carried out with a general trade union adopted at the FBiH or BD level.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Failure to inform and consult with the workers' council or trade union renders the dismissal null and void and it can trigger fines of up to approx. EUR 1,500 - 3,500 for the employer and approx. EUR 250 - 500 for the authorised persons (amounts are indicated in the maximum range stipulated in FBiH and RS).
What alternatives to redundancy dismissal are open to an employer?	For the FBiH, the government recommends that employers who employ a significant number of employees should reorganise working hours (if work processes allow), and permit employees to use their annual leave and other leaves of absence in accordance with applicable labour law, collective agreements or employment rulebooks. Such recommendations have not been made by the competent authorities of RS or BD BiH. However, identical or similar approaches are widely used in practice.

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Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. The so called 60% - 40% scheme (the "**Scheme**") was introduced by the Law on Emergency Measures and was amended by Decree No 55/30.03.2020 of the Council of Ministers (the "**Decree**"). Pursuant to the Decree, employers who benefit from the subsidy are prohibited from: (i) dismissing employees of the entity in receipt of the subsidy for a period at least equal to the period of receipt of the subsidy; and (ii) dismissing any other employees (i.e. employees of an entity which receives no subsidy) on redundancy grounds during the period of the subsidy. If an employer does not comply with these prohibitions, it will be obliged to reimburse all funds received under the Scheme.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. The statutory protection against redundancy dismissal is not contingent on the length of service of the employee, but is granted only to explicitly defined categories of employees (e.g. employees suffering from certain diseases, pregnant employees, employees-trade union leaders, etc.)
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees dismissed due to redundancy are entitled to the following: • compensation for accrued but untaken annual leave - calculated on the gross salary of each employee; • compensation for retirement - employees who have obtained the right to state pensions at the time of termination are entitled to compensation based on 2 months' gross salary, or if the employee has 10 years of continuous employment with the employer, 6 months' gross salary. • compensation for unemployment – if the employee remains unemployed for at least one month following the dismissal or is employed in a lower paid job, compensation equivalent to 1-month's gross salary or the difference between the new (lower) salary and the previous one; and • compensation for breach of notice period obligations – usually the notice period is 30 days - 3 months.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	An employer is not obliged to apply/consider any state support and/or redundancy schemes (including the Scheme) even if they are eligible. However, if an employer has used a state subsidy under the Scheme, it will be prohibited from dismissing employees for certain periods. Any failure by an employer to comply with this prohibition would trigger an obligation to reimburse all funds received under the Scheme.
Are employers subject to separate collective consultation obligations?	Yes. Employers must comply with the information and consultation obligations for mass dismissals under the Labour Code. Mass dismissals are defined as the dismissals within a 30 day period of: (i) 10 or more employees in undertakings with 20-100 employees; (ii) at least 10% of the employees in undertakings with 100 - 300 employees; and (iii) 30 or more employees in undertakings with more than 300 employees. Consultation must be carried out with elected employee representatives (or a recognised trade union if one is in place) no later than 45 days prior to the first dismissal. Consultation must be meaningful and with a view to reaching agreement. Mass dismissals are also subject to an obligation to notify the Employment Promotion Agency ("**EPA**") within 3 days of the commencement of consultation with employee representatives/trade unions.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. There are no exceptions to an employer's information and consultation obligations in relation to mass dismissals, nor are there any special defences for non-compliance.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Breach of the information and consultation procedures may result in an administrative fine ranging from BGN 1,500 to BGN 5,000 and a personal fine for the responsible employee (e.g. HR Manager) ranging from BGN 1,000 to BGN 10,000. Breach of the information and consultation procedure before the EPA is subject to an administrative fine of BGN 200 per established breach.
What alternatives to redundancy dismissal are open to an employer?	Under the Law on Emergency Measures, employers can temporarily suspend work process, unilaterally implement reduced working hours or order the use of paid annual leave. Subject to employee consent, employers may also seek to reduce salaries or suggest the use of unpaid leave. An employer may also declare "idle" where operations have completely ceased. Once "idle" is declared, the employer can assign affected employees to other (appropriate) work within the company. Employers can also order employees to take paid leave (after the 5th "idle" day), or terminate some or all of the affected employees (after the 15th "idle" day).

CANADA – KPoirier@blg.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. Various federal and provincial programs have been implemented to assist employees in dealing with the impacts of the pandemic. These programs do not include any prohibitions on an employer ultimately dismissing employees despite having obtained the benefit of the programs.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. Employees with a minimum duration of continuous employment have the right not to be summarily dismissed (or not to be dismissed without good and sufficient cause). Redundancy is a fair reason for dismissal but will usually require an employer to provide a minimum amount of statutory notice of termination, pay in lieu of notice and/or other statutory payments or benefits where applicable. In addition, employment standards legislation generally preserves an employee's right to sue an employer for wrongful dismissal and seek further damages and compensation. Employees governed by specific legislation in The Federal Act, Quebec and Nova Scotia may contest their dismissal where the selection of the person to be dismissed for supposed economic reasons is based on subjective (rather than objective) considerations.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees with a minimum duration of continuous employment are generally entitled to a minimum amount of statutory notice of termination, pay in lieu of notice and/or other statutory payments or benefits, where applicable. This minimum notice will vary depending on the employee's length of service. Employers bound by employment agreements or collective bargaining agreements will also need to be mindful of their contractual obligations on termination.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. This is particularly the case in relation to employees in some jurisdictions who have employment protections such as a right not to be dismissed unfairly/without good and sufficient cause. Government support schemes such as the Canada Emergency Wage Subsidy ("**CEWS**") seek to promote continuity of employment by maintaining the link between employers and employees during the Coronavirus pandemic. Employers should consider obtaining support under schemes such as CEWS before taking steps to dismiss employees by reason of redundancy.
Are employers subject to separate collective consultation obligations?	Yes. Generally, where an employer is proposing to dismiss at least 50 or more employees within a short period of time (typically 4 weeks or less), it may be required to comply with group termination notice requirements under applicable employment standards legislation. In such cases, the employer will be required to provide increased termination notice or pay in lieu of notice (generally between 8 and 16 weeks) and provide advance notice to prescribed third parties. Specific criteria, entitlements and obligations will vary depending on the jurisdiction and may fall outside of the general ranges set out above.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	In some jurisdictions, an employer may be exempt from group termination notice requirements in the event that an unexpected or unforeseeable event makes work impossible to perform. While there is presently no case law or other official guidance about whether Coronavirus qualifies as such an event, given the right set of facts, an employer may be able to rely on it.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	A failure to comply with group termination notice requirements may result in the invalidation of any notice given, requiring an employer to provide additional notice or pay in lieu of notice. In addition, it can result in fines (in the thousands or tens of thousands of dollars) and/or additional monetary penalties being imposed pursuant to applicable employment standards legislation.
What alternatives to redundancy dismissal are open to an employer?	Please see the answer above in relation to the United Kingdom.

CROATIA – Dora.Gazi@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Where Coronavirus government support has been granted, certain thresholds regarding permitted workforce reductions apply and range between 10% and 40% of the employers total workforce.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No, there is no qualifying period of service that offers statutory protection against dismissal. All employees must be dismissed in accordance with statutory grounds and procedures. Redundancy is a potentially fair reason for dismissal. However, an employer must also ensure that it follows a fair process when carrying out such dismissals. For example, objective selection criteria must be used and employees must be consulted. If an employee is unfairly dismissed, an employment tribunal can award compensation and order reinstatement.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Redundancy compensation amounts to: (i) 60% of the employee's average gross salary paid in the 3 month period preceding the date of termination for the first 90 days of such compensation; and (ii) 30% of the same amount for the remaining period of such compensation. The remaining period is determined in respect of the duration of the employment on the following basis: (i) 90 days if the length of service is 9 months - 2 years; (ii) 120 days if the length of service was longer than 2 years; (iii) 150 days if the length of service was longer than 3 years; (iv) 180 days if the length of service was longer than 4 years; (v) 210 days if the length of service was longer than 5 years; (vi) 240 days if the length of service was longer than 6 years; (vii) 270 days if the length of service was longer than 7 years; (viii) 300 days if the length of service was longer than 8 years; (ix) 330 days if the length of service was longer than 9 years; (x) 360 days if the length of service was longer than 10 years; (xi) 390 days if the length of service was longer than 15 years; (xii) 420 days if the length of service was longer than 20 years; (xiv) 450 days if the length of service was longer than 25 years; and (xv) until re-employment if the length of service was longer than 35 years and the employee is 5 years or less from retirement age. The amount of redundancy compensation may not exceed: (i) 70% of the average salary in Croatia paid in the previous year (HRK 4,519.9 for 2020) for the first 90 days; and (ii) 35% of the same amount (HRK 2,259.95 for 2020) for the remaining period of such compensation.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. The employer must ensure that the applicable thresholds (see above) for workforce reduction set out under the government scheme are not exceeded.
Are employers subject to separate collective consultation obligations?	The collective dismissal procedure is triggered if an employer intends terminating the employment contracts of more than 20 employees in a period of 90 days and at least five of such employees are terminated by reason of redundancy. In this scenario, apart from the general obligation to consult the employee representatives or obtain their prior approval, the employer must inform the Croatian Employment Service of its restructuring process.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	The dismissal may be deemed null and void.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns. However, such measures require employee consent.

CZECH REPUBLIC – Jitka.Logesova@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. However, the employer can only claim the government support for employees employed at the date of the subsidy application and the employees must not be serving their notice period (unless they are being dismissed for a breach of their employment duties).
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. However, certain employee groups are protected against redundancy dismissal, such as employees who are temporarily unfit for work (sick leave), pregnant, on maternity or parental leave and members of trade union bodies during their term of office (and up to one year after their term of office has expired where the prior consent of the trade union has been obtained). This protection applies only when the employment is terminated by notice. A termination agreement can be entered into with protected employees but this will not create a waiver of any rights.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	If an employee is terminated by reason of redundancy, the employer must provide a severance payment calculated based on the duration of employment as follows: (i) where employed for less than a year, the employee will receive 1x their average monthly earnings; (ii) where employed for at least 1 year but less than 2 years, the employee will receive 2x their average monthly earnings; or (iii) where employed for more than 2 years, the employee will receive 3x their average monthly earnings. Employers may pay more than the statutory minimum but have a general obligation to ensure that all employees are treated equally. Where employees are made redundant, statutory severance payments are not subject to social security contributions regardless of whether the employee is dismissed by notice or agreement. Even where employment is terminated by mutual agreement by reason of redundancy, employees will still be entitled to statutory severance payments. There is a statutory minimum 2 month notice period (unless a longer period has been mutually agreed) for termination by notice. The notice period will begin on the first day of the month following that in which the notice is delivered. During the notice period, employees are entitled to receive their regular salary, including bonuses and benefits. A collective agreement or the employer's internal regulation may include more favourable conditions such as a higher severance pay or a longer notice period.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes, the employer should take into account the available government support when making any dismissal decisions.
Are employers subject to separate collective consultation obligations?	An employer is required to consult employees in relation to any intended organisational/structural changes, probable development of employment, basic conditions of employment or changes or measures directly impacting employment. This does not apply to companies with less than 10 employees. If a works council is in place, consultation must be with that works council. An employer also has a duty to consult with any trade union (if established). A special consultation process is required for collective redundancies. Collective redundancies will be triggered if the employer terminates, with notice, the employment of at least the following numbers of employees within 30 calendar days due to organisational changes: (i) 10 employees where there are between 20 and 100 employees; (ii) 10% of employees where there are with between 101 and 300 employees; (iii) or 30 employees where there are more than 300 employees.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No, there is no "special circumstances" defence.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Fines of up to CZK 200,000 may be imposed for a failure to comply with any legal requirement to inform and consult with employee representatives.
What alternatives to redundancy dismissal are open to an employer?	Employers who experience a temporary decline in sales and services can adopt internal regulation on partial unemployment and salary reductions up to 60% of an employee's average salary. However, where there is a trade union in place, an agreement must be reached with it to reduce salaries due to partial unemployment. Employee consent is required if an employer wishes to reduce salaries or working hours outside of partial unemployment. Employers can unilaterally order employees to take paid annual leave, by giving at least 14 days' notice.

FRANCE – Sarah Delon-Bouquet (Sarah.DelonBouquet@bryancave.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Employers will be prevented from making employees redundant if, within the last three years, or during the Coronavirus pandemic, they have requested the support of the partial activity or unemployment scheme (furloughing) at least twice. One of the requirements imposed by the government for the utilisation of such a scheme will often be the maintenance of employment.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	The level of damages will vary according to the length of employment (there is no minimum period). Employees may contest the reasons for their dismissal and claim damages for wrongful dismissal in the French labour courts. Damages are capped according to the employee's length of employment. For protected employees (e.g. personnel representatives), the labour inspector must authorise the dismissals. If the dismissals are not authorised, they will be null and void and the protected employees will be entitled to reinstatement.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employee will be entitled to a severance payment. The payment is calculated by multiplying 1/4th of an employee's average monthly salary (from the last 3 or 12 months, whichever is more favourable to the employee) by each year of employment. When an employee exceeds 10 years of service they will be entitled to 1/3rd of their average monthly salary from the 10th year. If there is a collective labour agreement, it may provide for higher severance pay. If the company employs more than 50 employees and intends dismissing 10 or more, it must negotiate and implement a social plan (employment preservation plan) which provides for higher payments.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Furloughing measures have been implemented to avoid employers having to dismiss their employees and to provide them with temporary indemnification during the Coronavirus pandemic.
Are employers subject to separate collective consultation obligations?	Yes. If an employer envisages more than one dismissal for economic reasons it must consult its works council (the "**CSE**"). If 10 or more dismissals are envisaged over a 30 day period, the employer must also implement a social plan. The social plan would either be negotiated with the union delegates through a company collective agreement or implemented unilaterally. If a company collective agreement is entered into within the social plan, the employer would need to obtain the approval or authorisation of the French labour authorities for the social plan.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No, there is no defence for a failure to comply. Although consultation must take place, there is no obligation to reach agreement with the works council. However, as noted above, approval or authorisation of the plan by the French labour authorities may be required if 10 or more dismissals are envisaged over a 30 day period.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	The dismissals could be deemed void and reinstatement of the employees ordered.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to apply for the partial activity scheme (furloughing) by reducing working hours (up to 1,000 hours per employee for a period of 12 months). It can also seek to negotiate a collective mutual termination agreement which would need to be negotiated and entered into as a collective company agreement with union delegates and validated by the French labour authorities. This agreement would include details of the maximum number of terminations, conditions for applying for such terminations and the termination conditions and payments. Interested employees would then make an application for voluntary termination. Employers who have previously applied for the partial activity scheme several times within the last 3 years may have undertaken to maintain employment and will therefore be unable to consider collective mutual termination.

GERMANY – Katharina von Rosenstiel (Katharina.Rosenstiel@bclplaw.com)

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	No. There are currently no Coronavirus-specific restrictions prohibiting an employer from dismissing an employee. However, standard rules continue to apply which include, in particular, the Protection Against Unfair Dismissal Act (*Kündigungsschutzgesetz*) and special protections against dismissal for certain employee groups (e.g. employees on maternity leave or with a disability).
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Yes. Employees working in a company which regularly employs more than 10 full-time employees and who have been employed for more than 6 months are protected under the Protection Against Unfair Dismissal Act. Under this Act, a dismissal due to redundancy is justified for operational reasons if: (i) a specific job is eliminated due to an entrepreneurial decision (e.g. reduction in headcount as a consequence of an economic decline); (ii) there is no possibility of redeployment within the company; and (iii) a social comparison has been carried out among comparable employees and the employee to be dismissed enjoys the least social protection. The employer carries the full burden of proof for all statutory requirements. If a dismissal is found by a labour court to be unjustified, it will be invalid and the employee will be entitled to reinstatement.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	There is no statutory obligation for employers to offer redundancy compensation. However, sometimes collective bargaining agreements (*Tarifvertrag*) or works agreements (*Betriebsvereinbarung*)) include a compensation obligation. Often, employers offer voluntary redundancy compensation to avoid legal proceedings. The amount of voluntary redundancy compensation is usually calculated by using the following formula: 1/2 to ¾ of 1 month's gross salary per year of employment.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	An employer is obliged to consider any action aimed at avoiding dismissal. For example, an employer should offer a change of position, if such is available, or in the event of a declining business consider the implementation of short-time work with a reduction in salary.
	**Are employers subject to separate collective consultation obligations?**	Where a works council (*Betriebsrat*) has been established, employers are obliged to consult with the works council before dismissing an employee. Consent of the works council is not, however, required. If the scope of redundancies is fundamental, they may also constitute a change in operations (*Betriebsänderung*) requiring the employer to negotiate a social plan (*Sozialplan*) and a reconciliation of interests (*Interessenausgleich*) with the works council. Information requirements opposite the Federal Employment Office (*Bundesagentur für Arbeit*) may apply if the number of redundancies exceeds certain thresholds.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	No.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	A dismissal issued without prior consultation with the works council is invalid. The same applies if the information requirements opposite the Federal Employment Office have not been discharged. If the requirements for a social plan/balancing of interests are met, but the employer has not entered into respective negotiations with the works council, the employees may claim financial compensation for any detriment (*Nachteilsaugleich*) they have suffered due to the employer's negligence.
	**What alternatives to redundancy dismissal are open to an employer?**	Due to Coronavirus and under the assumption that the decline in work is only temporary, the most common approach is to introduce short-time work (*Kurzarbeit*) which is subsidised by the German government through the payment of a short-time work allowance (*Kurzarbeitergeld*).The introduction of short-time work requires employee or the works council consent. Alternatively, a so called amendment dismissal (*Änderungskündigung*) is possible, whereby a notice of termination with an offer to continue the employment under adjusted terms (e.g. reduced salary/ working hours) is issued. If the employee refuses to accept the proposed new terms of the amendment dismissal, the offer expires and statutory protection against unfair dismissals applies.

HONG KONG – Cora Kang (Cora.Kang@bclplaw.com)

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	Yes. If an employer applies for the Employment Support Scheme (the "**ESS**") under the 'Anti-epidemic Fund' they will be required to provide an undertaking not to implement redundancies during the subsidy period. Furthermore, if there is any reduction in the number of employees on the payroll during the subsidy period, the subsidy will be adjusted by way of clawback and other penalties.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	No. There are no specific regulations which prevent an employee from being dismissed due to redundancy regardless of the length of their employment. However, employees who have at least 2 years of continuous employment have the right to make a claim for any unreasonable, unlawful or discriminatory dismissal. On the basis that redundancy is recognised as one of the lawful "valid reasons" for dismissal there is little risk that an employee can successfully challenge it as unreasonable. It is, however, open to an employee to challenge the redundancy on grounds of discrimination or unlawful dismissal provided they have at least two years continuous employment.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	Employees with at least 2 years continuous employment are entitled to a statutory severance payment. This payment is calculated by reference to the employee's years of service multiplied by last month's pay (capped at HK $22,500). The maximum statutory severance payment that an employer is liable to pay to each employee is HK $390,000. Employees who are dismissed by reason of redundancy are entitled to notice pay.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	Yes. Consideration should be given if an employer has applied for the ESS as any reduction in headcount may result in a penalty/ clawback (as set out above). An employer should consider applying for the ESS before planning any dismissals, although a failure to do so will not expose the employer to a greater risk of unreasonable dismissal claims.
	**Are employers subject to separate collective consultation obligations?**	No. Employers are not subject to any collective consultation obligations in the event of a collective dismissal.
	**If an employer is subject to collective consultation obligations, is there any defence for failure a to comply?**	N/A.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	N/A.
	**What alternatives to redundancy dismissal are open to an employer?**	Please see answer above in relation to the United Kingdom. However, no collective consultation obligations will be triggered.

HUNGARY – Barnabas.Buzasi@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Two government subsidies have been introduced. One is linked to reduced daily working hours (the "**Subsidy**") and one is applicable for employees working in research and development positions (the "**R&D Subsidy**"). Employers who apply for the Subsidy are prohibited from laying-off the affected employees for the duration of the Subsidy and for an additional period of one month. Employers who apply for the R&D Subsidy are prohibited from laying-off the affected employees for the duration of the Subsidy.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. Employees do not have any statutory protection linked to the length of service. However, parties can exclude the ability to terminate by notice for a period of up to one year from the date of commencement of the employment relationship.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who have at least 3 years' service are entitled to a severance payment. This is calculated by reference to the length of service and increases proportionally. The minimum amount an employee is entitled to is 1 months' absentee payment after 3 years' service and the maximum of 6 months' absentee payment after 25 years' employment. In addition, employees are entitled to a notice period of 30 - 90 days, depending on the length of service.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	No. If the Coronavirus causes economic difficulties, employers have discretion to carry out dismissals without considering whether to apply for government support.
Are employers subject to separate collective consultation obligations?	Yes. Where an employer proposes dismissing 20 or more employees at one establishment within a 30-day period, it must comply with collective redundancy consultation obligations under the Labor Code (the "**Act**"). Consultation must be carried out with a works council at least 15 days prior to the decision being made to make collective dismissals. Consultation must be meaningful and with a view to reaching agreement.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. If the employer fails to consult with the works council, it can bring an action within 5 days of the violation. The court should hear such cases within 15 days. The employer is able to appeal any decision within 5 days of the decision, with the court of second instance delivering its verdict within 15 days . See the answer below for the range of fines which can be imposed for such a breach.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Within five days of an employer's violation of the consultation obligation, the works council may bring a claim. The courts hear such cases within 15 days. This procedure only declares that there has been a violation of the consultation provisions, but does not enforce it. However, a violation of consultation provisions may result in a labor fine in the event of a labor inspection. Fines range from HUF 30,000 to HUF 10,000,000.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to: (i) reduce salaries, (ii) reduce working hours or (iii) ask employees to take unpaid leave on the basis of mutual agreement. Furthermore, an employer is entitled to introduce working time banking of up to 24 months. Introducing such changes may trigger collective consultation obligations. In addition, an employer can require employees to take paid annual leave, subject to complying with the rules relating to scheduling annual leave.

INDIA – Amit@bhasinandbhasin.com

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	The government has not offered any tangible support to employers. However, the government has imposed restrictions on dismissing employees during the lockdown period by invoking the Disaster Management Act. The government has issued advice prohibiting employers from terminating the employment of any employees or reducing their salaries during the lockdown period. It is intended that employers will absorb the financial burden of the Coronavirus despite the difficulties this is causing. Some employers are nonetheless making redundancies and reducing salaries which has resulted in them being threatened with prosecution and penalties.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Typically, permanent employees who are categorised as 'workmen' under the Industrial Disputes Act are granted protection against dismissal in such cases. It is easier for employers to terminate those employees who have carried out less than 240 days service in a year. Probationers, apprentices, trainees and employees with under 240 days' service in a year are low risk terminations when compared to permanent employees.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	Termination due to the Coronavirus pandemic is not a ground for redundancy. However, it should be noted that generally redundancy (retrenchment under Indian laws) provides for compensation of 15 days salary to be paid for every completed year of service.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	N/A as the government has not offered any support scheme to employers.
	**Are employers subject to separate collective consultation obligations?**	No.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	N/A.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	N/A.
	**What alternatives to redundancy dismissal are open to an employer?**	Employers who cannot sustain the financial impacts of the Coronavirus are taking steps such as seeking consent to salary reductions or the taking of paid or unpaid leave. By securing employee consent for these measures, the employer will not be in breach of the orders issued by the government which prohibit a reduction in an employee's salary. Managers and senior level employees who are not classed as 'workmen' under the Industrial Disputes Act can be made redundant. Senior level management employees on higher salaries are currently facing greater pay cuts (of up to 50% of gross salary). These pay cuts are initially being announced for a temporary period of three months but they may be extended.

INDONESIA – Marius Toime (Marius.Toime@bclplaw.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No regulations have been issued to restrict the termination of employees. However, employers are prohibited for a period one year from dismissing employees who have contracted Coronavirus and are absent from the office. The President of the Republic of Indonesia has conveyed his desire for employers not to dismiss their employees during the Coronavirus pandemic. If an employee is declared as a 'person under monitoring' the employer must allow the employee to self-isolate for 14 days. The salary of such an employee will be protected under Indonesia Manpower law as follows: first 4 months at 100%; second 4 months at 75%; third 4 months at 50%; subsequent months – until termination of employment at 25%.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	In the event of dismissal due to efficiency reasons (i.e. not due to financial losses or force majeure), dismissed permanent employees are entitled to double severance pay, single service pay and compensation. Under Indonesia Manpower Law: (i) severance pay amounts to one month's salary for each year of service, up to a maximum of nine months' salary; (ii) service pay amounts to one month's salary for every three years of employment, starting with two months' salary for 3 years, up to a maximum of 10 months' salary for 24 years of service; and (iii) compensation may include accrued but untaken annual leave, 15% of the severance pay and/or service pay as compensation for housing and health care allowances and other compensation as agreed under an employment contract , company regulation or collective labour agreement.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	No.
Are employers subject to separate collective consultation obligations?	No. However, dismissal is subject to approval of the labour courts unless: (i) dismissal is due to the death of the employee: (ii) the employee reaches pensionable age: (iii) the employee voluntarily resigns or (iv) the employee is still in their probationary period.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	No.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns. However, if such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract or statutory breach under the manpower law or its implementing regulations). Reduction of non-fixed allowances may be permitted depending on the employee's contract. Introducing such changes may also trigger collective consultation obligations. Indonesian manpower law does not make a distinction between redundancy dismissal and lay-off, with the law focusing on the concept of termination of employees, which is subject to bilateral negotiation and needs to be based on mutual agreement with the employee. Short-term working could be introduced as an alternative to termination, but in the absence of a contractual right to do so, an employer will be in fundamental breach of contract (as well as its statutory obligations), which may lead to a dispute with the employee and various sanctions (some of which are criminal in nature) under the manpower law. According to government circular letters relating to the Coronavirus, the termination of employees due to force majeure may be an alternative to termination in the ordinary course .

ISRAEL– Nbromberg@barlaw.co.il

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	No. An employer is allowed to dismiss any of its employees, subject to limitations in the law, the employment agreement and/or any applicable collective bargaining agreement. There are some legal limitations on dismissing pregnant women, women on maternity leave (and 60 days thereafter), women staying in shelters for abused women, employees who have been called up for military service, employees on sick leave, employees during infertility treatments and certain members of bereaved families ("**Protected Employees**"). In these circumstances, some legal restrictions may apply and a permit for termination from an official authority may be required.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	In certain cases, Protected Employees are protected from termination after six months of employment. Additionally, employers might face claims that the process of selecting those to be laid off or the reason for termination was based on unlawful bias or discrimination (e.g. on the basis of race, age, sex, religion). Therefore, employers should have a fully considered and articulated business basis for each decision to dismiss. The employer, prior to making the final dismissal decision, must hold a hearing with the employee in question to enable them to state their case in an attempt to persuade the employer to change their decision.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	According to the Severance Pay Law, 1963 (the "**Severance Pay Law**"), an employee will be entitled to statutory severance pay in the event that they were (i) dismissed by the employer (as opposed to resigned) and (ii) worked for at least one year for the same employer or at the same place of work. Statutory severance pay is an amount equal to an employee's monthly base salary on termination multiplied by the number of years of their employment. In most cases, severance pay will not be a full out-of-pocket expense for the employer, as when contributing to the statutory comprehensive pension program, employers also contribute to a severance component which is used for future severance payments. Therefore, if a severance payment is due on termination, the employer will be permitted to make this payment using the amounts deposited in the severance component of the pension program.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	An employer may consider furloughing employees which will enable them to receive, under certain circumstances, unemployment benefits from the National Insurance Institute. This could be done before taking steps to dismiss an employee by reason of redundancy.
	**Are employers subject to separate collective consultation obligations?**	An employer subject to collective bargaining relations should act according to the terms of the Collective Bargaining Agreement ("**CBA**") in relation to a redundancy process. In certain circumstances, employers should negotiate (rather than consult) with the employee unions regarding terminations and the terms of such terminations.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	No. Failure to act according to the terms of a CBA may result in a collective dispute and may result in, after a "cool down" period of 15 days, a strike or other industrial action and/ or injunctions from the District Labor Court.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	Please see the answer above.
	**What alternatives to redundancy dismissal are open to an employer?**	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns. However, if such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract, constructive dismissal, unlawful deduction from wages). Introducing such changes may also trigger collective negotiations obligations. An employer can also seek to put its employees on unpaid leave with employee consent.

ITALY – ATesti@grimaldilex.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. However, the emergency provisions implemented in response to the Coronavirus have introduced a 5 month ban, which commenced on the 17 March 2020, on employers starting collective dismissal procedures and serving individual dismissals for objective/economic reasons. This prohibition does not affect dismissals based on objective/economic reasons for employees' with executive status and applies independently to an employer's access to the state-funded salary integration scheme (the "**Scheme**"). Where a dismissal is in breach of the COVID-19 prohibition, this will result in the relevant employee's reinstatement and an indemnity payment of no less than 5 months' salary. In addition, employers who dismissed employees (during the period 23 February - 17 March 2020) for objective/economic reasons may revoke the dismissals provided that they applied for the Scheme starting from the date on which the dismissal took effect. If so, the employee will be reinstated and the employer will not be exposed to liabilities.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	The statutory protection against unfair dismissals applies independently to length or length of service. Specific protections include monetary compensation or an employee's reinstatement in addition to an indemnity payment.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	There is no compensation awarded in relation to redundancy. However, where the dismissal is for objective/economic reasons, the dismissed employee is entitled to notice or a payment in lieu of notice.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. An employer should (at least) consider furloughing employees under the Scheme before taking steps to dismiss them by reason of redundancy. This is especially important given the current prohibition on dismissing employees for objective/economic reasons (with the exception of employees with executive status).
Are employers subject to separate collective consultation obligations?	Yes. If a company employs more than 15 employees and intends to dismiss 5 or more of them at one establishment within a 120-day period it must comply with collective redundancy consultation obligations under Law no. 223/1991. The employer must notify the competent employment office, the employees' staff representatives and respective trade unions of the decision to proceed with a collective dismissal. In the absence of employee representatives, notice must be given to the 'comparatively more representative' trade associations. Within 7 days after the date of the notice, the parties must meet to discuss and analyse the measures to try to avoid the dismissals. The first phase of the procedure should be completed within 45 days (23 days if the number of employees to be made redundant is lower than 10). If the parties do not reach agreement, the employer must give written notice to the competent employment office setting out the results of the negotiations and specifying the reasons for the negative outcome. The competent employment office must then convene a meeting of the parties. This second negotiation phase before the employment office cannot exceed 30 days (15 days if the number of employees to be made redundant is lower than 10). If the employer and the trade unions do not reach agreement within the maximum length of the procedure (75 days or 38 days if the number of employees to be made redundant is lower than 10), or if they reach agreement on how to conduct the redundancy, the employer is allowed to proceed with the dismissals.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	If an employer does not comply with the collective dismissal procedure and the impacted employees commenced employment before 7 March 2015, the employees will be entitled to an indemnity payment ranging from a minimum of 12 months' salary to a maximum of 24 months' salary. Where the impacted employees commenced employment after 7 March 2015 and have been unlawfully dismissed, they are entitled to monetary compensation ranging from a minimum of 6 months' salary to a maximum of 36 months' salary.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours. However, such changes require employee consent. An alternative course of action is for the employer to access the state-funded salary integration scheme that temporarily reduces employment costs. The COVID-19 emergency provisions do not, however, prohibit the termination of employment, if based on mutual consent.

LUXEMBOURG – Therese.Lallart@Castegnaro.lu

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes, an employer who has obtained the benefit of short-time working is prohibited from making redundancies.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Employees with a qualifying period of employment have no specific statutory protection against dismissal if the employer has not utilised the benefit of short-time working. However, employees on maternity leave, parental leave, sick leave etc. are protected.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	The same rules apply to individual redundancies as they do for other dismissals. An employee who is individually dismissed by reason of redundancy is entitled to notice calculated based on length of service. Employees with less than 5 years' service are entitled to 2 months' notice, those with less than 10 years of service (but more than 5) are entitled 4 months' notice and those with 10 or more years of service are entitled to 6 months' notice. Such notice entitlement is subject to more favourable provisions such as those contained in a Collective Bargaining Agreement. If an employee has more than 5 years' service they will be entitled to a severance pay (1 month for those with at least 5 years of service, capped at 12 months for those with more than 30 years' of service).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	When an employer is considering making collective redundancies, negotiations should focus on the possibility of avoiding or reducing the number of dismissals as well as the options available to mitigate the consequences of any dismissals. Options available include social measures aimed, in particular, at providing support for the redeployment or retraining of redundant employees and the possibility of their immediate reintegration into the labour market. The application of short-time working, alternative working time arrangements and temporary reductions in working hours etc should be considered in order to try and avoid redundancies. Employers are not subject to such obligations in relation to individual redundancies.
Are employers subject to separate collective consultation obligations?	Yes. If an employer employs more than 15 people (or less than 15 but is subject to a Collective Bargaining Agreement) and is contemplating dismissing (for reasons not relating to the employees' individually) at least 7 employees over a period of 30 days, or at least 15 employees over a period of 90 days, it must comply with a mandatory procedure which includes an obligation to negotiate with the staff delegation in accordance with specific deadlines in order to conclude a social plan. However, during the Coronavirus pandemic the deadlines which are normally applied during the negotiation of a social plan have been suspended by the Grand-Ducal Regulation of 1 April 2020 within the framework of a collective redundancy. This measure applies to both the collective redundancy procedure and the related conciliation procedure.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	There is no defence if an employer fails (even during the Coronavirus pandemic) to comply.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	If the negotiations do not address ways of avoiding redundancies, the dismissals will be void. The dismissals will also be void if an employer carries out the dismissals either before the signature of the redundancy plan, before the minutes are signed (a report drawn up by the National Conciliation Office when there is a disagreement between the parties on a redundancy plan) or before the establishment of a staff delegation. The employer should not dismiss any employees until the relevant step as outlined above is completed. An employee who does not claim that their dismissal is void (where applicable) will be entitled to claim damages for the unfair termination of their contract if the employer makes redundancies which do not comply with the procedures set out in the Labour Code (including a failure to follow the above steps). A failure to negotiate or provide written notification of the planned collective redundancies to the Employment Development agency within the relevant timeframe would not be compliant with the Labour Code.
What alternatives to redundancy dismissal are open to an employer?	The employer can request short-time working. In addition, it can, with employee consent, reduce working hours or salary. If the employee does not consent, the employer may attempt to enforce a unilateral modification of the employment contract through a specific procedure. Employers can also consider re-arranging working hours over a longer reference period or introducing training to enable employees to be reassigned elsewhere within the business.

NETHERLANDS – Maureen.te.poel@loyensloeff.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Under the current Temporary Aid Scheme to Maintain Employment (the "**NOW**") employers are not permitted to submit a request for permission to terminate an employment contract for business or economic reasons to the Employee Insurance Agency (the "**UWV**"). This prohibition came into force on 17 March and continues until 31 May 2020. In the event that the employer does submit a request during this period, the amount of aid that the employer is able to receive will be impacted. The NOW has been extended for a further three months (Jun–Aug 2020) (the "**NOW II**"). Under the NOW II employers are no longer prohibited from submitting a request for permission to terminate an employment contract for business or economic reasons. However, the amount of aid that the employer is able to receive will still be impacted (although less severe compared to the NOW) as the amount of aid will be reduced by an amount equal to the salary of the relevant employee(s).
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. An employer cannot unilaterally terminate an employee in a redundancy scenario. The employer must file a request with the UWV to obtain permission to give notice to the employee. The UWV will only grant permission if the employer can prove that: (i) a reasonable ground for termination exists and (ii) redeployment of the employee (potentially with training) to a suitable other position is not possible. Employers must apply the 'balancing system' when selecting which employees to make redundant. This requires the employer to divide employees performing interchangeable positions equally between 5 age categories and the 'last-in-first-out' system must then be applied within each age category with the employees with the shortest period of service first to be dismissed. An employee who believes they have been unfairly dismissed can file a request with the sub-district court to declare the termination null and void or request that the sub-district court awards them fair payment.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employee who is dismissed for business economic reasons is entitled to a transition payment equal to the higher of one-third of their monthly salary for each full year of service up to a maximum of EUR 83,000 or a gross annual salary. Where a social plan has been agreed with trade unions a higher compensation often applies.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. If a request for dismissal is submitted during the term of the NOW, the calculation of the aid amount will be modified. When determining the aid amount, the wages earned by the employees subject to dismissal are taken into account. These wages are subsequently increased by 50%. Essentially, this amounts to a penalty as 150% of actual wages are deducted from the aid available to the employer. Furthermore, if an employer submits a request for permission to terminate an employee for economic reasons to the UWV, it must demonstrate that the dismissal is necessary and that the NOW aid is not a solution.
Are employers subject to separate collective consultation obligations?	Yes. Where an employer is proposing to dismiss at least 20 employees who are employed within one geographical region of the UWV within a 3-month period, it must comply with a number of procedural rules under the Collective Redundancy Notification Act (in Dutch: *Wet melding collectief ontslag*, the "**WMCO**"). The WMCO provides, for example, that the employer must notify and consult the trade union on the need for the reorganisation and the consequences for the employees. Some collective bargaining agreements also include a consultation obligation with the trade union, if fewer than 20 employees are dismissed. Furthermore, the Works Councils Act (*Wet op de ondernemingsraden*, the "**WOR**") provides that an employer must consult with the works council on important economic or organisational decisions that the employer intends to make, such as the proposed decision to reduce the activities of the company.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	In the event an employer has failed to comply with its obligations under the WMCO, an employee can file a request with the sub-district court to nullify the termination or grant a fair payment. In the event that the works council's advice has not been requested or followed, the works council can lodge an appeal with the Enterprise Chamber. The Chamber may order the employer to withdraw the decision and to reverse any steps taken in connection with it.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns. However, if such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract, constructive dismissal and unlawful deduction from wages etc.) Introducing such changes may also trigger collective consultation obligations. Employers may also choose not to renew fixed-term contracts. However, these changes may have a negative impact on aid availability under NOW because the reduction of salary and termination/non-renewal of contracts will impact the wage bill in the period from Mar-May 2020 (Jun-Aug 2020, with respect to NOW II). Where the actual wage bill over this period is lower than three times the wage bill in Jan 2020 (Mar 2020, with respect to NOW II), the aid will be adjusted downwards. The employer may try to agree with individual employees that a (small) number of days' annual leave will be taken. However, this approach would need to be handled with caution given the Dutch government's restriction on taking holiday during this period.

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Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Under the Government's Wage Subsidy Scheme (the "**Scheme**"), an employer who has applied for wage subsidy payments on behalf of certain employees must declare that it will retain those employees for the duration of the Scheme's 12 week subsidy period. If an employer terminates an employee under the Scheme for redundancy during the 12 week Scheme period, it would be required to repay Scheme payments received for that employee to the Government and could be in breach of any representations made to that employee with regard to their continued employment during the Scheme period.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No, except in relation to a small group of "vulnerable" employees as identified in the Employment Relations Act 2000 (including those employed as cleaners or caterers).
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	There is no statutory entitlement to redundancy compensation. However, some employment agreements provide a contractual entitlement to redundancy compensation. The extent of this payment will depend on the contractual entitlement of the employee. Employees who are dismissed by reason of redundancy are entitled to their termination notice (unless their employment agreement specifically provides for redundancy notice).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Before dismissing an employee by reason of redundancy (e.g. due to financial viability concerns), the statutory duty of good faith requires an employer to consider all relevant information and support available to the employer (including the Scheme), and explore all reasonable options to retain the employee, before confirming a decision to proceed with redundancy.
Are employers subject to separate collective consultation obligations?	Not under statute. The Employment Relations Act 2000 sets out minimum consultation requirements, which are part of an employer's statutory duty of good faith to its employees (and these obligations apply to all employees, whether under an individual or collective employment agreement). An individual or collective employment agreement may also include enhanced consultation obligations which an employer is contractually bound to follow.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No, there is no defence for a failure to comply with the statutory duty of good faith and its related consultation obligations. It is unlikely that any enhanced consultation obligations contained in an individual or collective employment agreement would provide a defence for a failure to comply with contractual consultation obligations, however, this will depend on the contractual wording of these obligations.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	If an employer breaches its duty of good faith, it may be liable to a penalty of up to NZ 20,000 per breach. If an employer dismisses an employee, and it is subsequently determined that the employer had failed in its consultation obligations during the dismissal process, this would amount to an unjustified dismissal and that employee would have the opportunity to receive one or a combination of the following remedies: (i) reinstatement; (ii) lost wages (where there was also no substantive justification for the dismissal); (iii) a contribution to legal costs; compensation for humiliation, loss of dignity, and injury to feelings; and (iv) compensation for the loss of any benefit, whether or not monetary, which the employee might have reasonably been expected to obtain if the unjustified dismissal had not occurred. The above remedies for an unjustified dismissal are available to all employees, regardless as to whether they are covered by a collective employment agreement or an individual employment agreement. The same remedies are also available in the event of a single claimant or multiple claimants.
What alternatives to redundancy dismissal are open to an employer?	If the employer has received the Government wage subsidy, a short-term alternative to redundancy could be to retain the employee for the duration of the Scheme period (12 weeks) but only pay the employee the equivalent of the wage subsidy payment (and require the employee to work an equivalent reduction in hours) provided the justification for redundancy was due to financial viability concerns. Other alternatives to redundancy may include: (i) reduction in salaries or working hours; (ii) periods of unpaid leave or (iii) redeployment into another role or area of the business. Implementation of these alternatives would require employee consent.

PEOPLE'S REPUBLIC OF CHINA[1] – Cora Kang (Cora.Kang@bclplaw.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	The answer varies depending on the local policies issued by different local governments in China. Some local governments require employers to undertake not to dismiss employees or to reduce the number of employees that will be dismissed as a condition for receiving governmental subsidies. Breach of such undertakings may incur penalties.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. An employee with more than 15 years of continuous service and less than 5 years left prior to their retirement (age varies depending on various factors) cannot be dismissed by reason of redundancy. An employee who has entered into a long term fixed employment contract or who has entered into a non-fixed term employment contract with the employer shall be given priority status in terms of being kept in employment during an "Economic Redundancy" scenario (i.e. a large scale dismissal of more than 20 employees or more than 10% of the total number of employees due to reasons such as operational difficulties, bankruptcy, change of objective circumstances etc.).
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employer must pay a dismissed employee economic compensation equivalent to their monthly wage (i.e. the employee's average monthly wage for the 12 months prior to dismissal) multiplied by the employees number of years of service. If the monthly wage of the employee is higher than three times the average monthly wage of employees declared by the local city government for the previous year, the employee's compensation will be equivalent to three times the average monthly wage of employees declared by the local city government multiplied by the number of years of service. This is subject to a cap of 12 years' service ("**Economic Compensation**").
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. An employer should consider government support measures before dismissing an employee. Employers should also seek to explore alternative options before resorting to dismissal.
Are employers subject to separate collective consultation obligations?	Yes, but only in the context of an Economic Redundancy scenario (see above). When carrying out an Economic Redundancy, an employer is required to inform the labour union or all employees about the proposed redundancy plan 30 days in advance and seek their opinions. After such opinions have been sought and considered, an employer must report the finalised redundancy plan to the labour authority. Only after such procedures have been complied with can the employer proceed with the relevant dismissals in an Economic Redundancy scenario.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	Yes. There is no specific time period during which a mass dismissal under the Economic Redundancy needs to be carried out. However, it is assumed that a mass dismissal under the Economic Redundancy will involve all employees being dismissed at once or consecutively during a relatively short period of time. If this is not the case (for instance 20 employees are dismissed during a period of one year with one to three employees being dismissed per month), the employer may seek to argue that such a dismissal does not fall under the Economic Redundancy scenario and therefore the statutory procedures as set out above (seeking opinions of labour union/all employees and reporting to labour authority) are not required. The prospects of successfully mounting such a defence will depend on the length of the dismissal period and the reasons for the dismissal.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	If an employer fails to comply with the statutory procedures, wrongfully dismissed employees are entitled to twice the amount of Economic Compensation (as defined above) or reinstatement if demanded by the employee.
What alternatives to redundancy dismissal are open to an employer?	If an employer has encountered operational difficulties as a result of the Coronavirus it is encouraged to take various measures to avoid the dismissal of employees or reduce the number of employees it will dismiss. An employer could consider salary reductions, post shifts, job rotations or a reduction of working hours with its employees. However, such measures, (in particular salary reductions), must be made with the written consent of the impacted employees. In the absence of such consent, the employer may be exposed to potential claims including breach of contract and administrative penalties. In addition, the salary of the relevant employees cannot be less than the minimum salary threshold as announced by the local government.

[1] Note: This document excludes Macau. For further information on Taiwan see p.38 and for Hong Kong see p.14.

PHILIPPINES – lcdy@syciplaw.com

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	Employers who utilise benefits under the government's Small Business Wage Subsidy Program ("**SBWS**") are prohibited from dismissing their employees during the SBWS period. In the event of non-compliance, the employer must refund the wage subsidy amount provided by the government to their employees. Employers who apply for financial assistance on behalf of their employees under the COVID-19 Adjustment Measures Program are not prohibited from dismissing their employees for just or authorised cause pursuant to the Labour Code (redundancy is a legally authorised cause).
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Probationary employees (employees who are on probation for six months and who must successfully pass all performance standards communicated to them at the commencement of their employment in order to qualify for regular employment) and regular employees (i.e. permanent employees with an indefinite period of employment) may be dismissed on grounds of redundancy, but only if an employer complies with the substantive and procedural legal requirements. To be deemed valid, the employer must implement the redundancy in good faith and the employees who will be dismissed must be selected pursuant to a fair and reasonable criteria adopted by the employer. Employers must serve written notice on each employee to be made redundant and notify the Department of Labor and Employment at least one month prior to the intended date of termination. Employers are also required to pay separation pay to dismissed employees.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	In the absence of an agreement, company policy or practice which provides for greater separation benefits, employees dismissed due to redundancy are entitled to statutory separation pay equivalent to 1 months' pay or at least 1 months' pay for every year of service, whichever is higher. A fraction of at least 6 months is deemed to be 1 whole year.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	Employers are generally not prohibited from dismissing employees for lawful cause (e.g. redundancy) during the Coronavirus pandemic. However, they are encouraged by the Department of Labor and Employment to adopt flexible work arrangements, such as forced leave, rotation of workers and reduction of work hours or work days, rather than implementing the outright dismissal of employees.
	**Are employers subject to separate collective consultation obligations?**	Under the principle of co-determination, employers are required to consult with employees regarding all matters involving their rights and welfare, which includes the potential termination of their employment due to redundancy. While prior consultation with affected employees is necessary, employers do not need to obtain employee consent. Collective consultation is typically conducted by a town hall meeting. Collective consultation may also be contractually agreed upon by management and unions in collective bargaining agreements ("**CBA**").
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	Employers should comply with the consultation requirements under the Philippine Constitution. However, general concepts found in civil law which excuse an employer from performing their obligations may arguably be raised as valid defences for not consulting prior to a redundancy dismissal.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	Employees who have been made redundant may file a claim for nominal damages which are awarded by the court to vindicate or recognise a right which has been violated. If an employer is found liable for violating an employees' right to consultation, the employer will be required to pay those employees a sum of money, the amount of which is at the discretion of the court.
	**What alternatives to redundancy dismissal are open to an employer?**	An employer can adopt flexible working arrangements, such as a reduction in working hours or workdays, rotation of workers and forced leave in order to mitigate the effects of the Coronavirus pandemic. The implementation of flexible working arrangements should be temporary in nature, subject to the prevailing conditions of the company and requires prior consultation with employees. In order to implement flexible working arrangements, an employer must file a notice in the prescribed form with the Department of Labour and Employment. A copy of 'Labour Advisory No. 9 series of 2020' should also be posted in a conspicuous location in the workplace.

POLAND – Bartlomiej.Raczkowski@raczkowski.eu

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Employers are restricted from making redundant employees in respect of whom state aid is provided during the period of state co-financing.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	An employee who is within 4 years of retirement age is protected against termination of employment ("**preretirement protection**"). This protection applies in relation to both individual and collective redundancies. In relation to collective redundancies, it is only possible to change protected employee's work and pay terms and conditions. However, if such a change results in a decrease in remuneration, the employee will be entitled to a compensatory allowance until the end of the protection period.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	The amount of statutory severance pay is fixed in relation to an employee's period of employment on the following basis: (i) 1 months' remuneration if their length of employment is below 2 years; (ii) 2 months' remuneration if their length of employment is between 2-8 years; and (iii) 3 months remuneration if their length of employment is 8 years or more. Maximum amount of the severance pay is capped at PLN 39,000. The severance pay is paid in addition to notice pay.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Please see the response to the first question above.
Are employers subject to separate collective consultation obligations?	Yes. A collective redundancy takes place when an employer who employs over 20 employees, terminates (in a period of not more than 30 days) at least: (i) 10 employees, if the employer employs fewer than 100 employees; (ii) 10% of the employees if the employer employs at least 100 but fewer than 300 employees or (iii) 30 employees if the employer employs at least 300 or more employees.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	There is no particular sanction for a failure to comply with the collective consultation procedure. However, if this procedure is not followed, an employee may challenge a dismissal on the basis that it was carried out in breach of the employer's legal obligation. The claims made by an employee may vary depending on the type of contract terminated, but essentially the remedies include reinstatement or compensation.
What alternatives to redundancy dismissal are open to an employer?	An employer can reduce working time and as a consequence salary by a maximum of 20%, provided that certain conditions are fulfilled and an agreement is reached with either the union or employee representatives (as the case may be). Any reduction in working time cannot amount to more than 0.5 of an employee's normal working time. Employers can also announce an interruption of work based on the Special Anti-Crisis Law. In both of the above scenarios (decreasing working time and announcing interruption of work), the employer can apply for co-financing of employment costs from the state. Employers can also consider the following: (i) limiting daily rest periods from 11 to 8 hours and weekly rest periods from 35 to 32 hours; (ii) implementing the equivalent working time system, where the daily working time is extended to 12 hours and balanced against shorter working time on other days (in a settlement period prolonged up to 12 months) and (iii) applying less favourable working conditions than those set out in the employment contract. Employers who utilise options (i) to (iii) will not be able to utilise State co-financing. Micro, small or medium sized enterprises can also obtain co-financing for part of an employee's salary in the event of a large reduction in turnover. There are also options included in the Labour Code which aim to reduce employment costs. Utilisation of these options will also prevent state aid being obtained. The options are: (i) change of working time, remuneration or other terms of employment included in an employment contract; (ii) suspension of remuneration and bonus provisions subject to agreement with unions or employee representatives; (iii) individual changes to terms of employment based on individual agreements with employees or by using a "notice of alteration" and; (iv) requiring employees to use annual leave accrued from 2019 or previous years.

REPUBLIC OF IRELAND – Koconnell@mhc.ie

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. Employees with over one years' service are protected against dismissal under the Unfair Dismissals Acts 1977-2014 (the "**UDA**"). Under the UDA, all dismissals are presumed unfair and the employer must rebut the presumption. In a redundancy, this involves proving that a genuine redundancy situation existed and that the employer followed fair procedures in consulting with, and in some cases selecting, the employee (s) for redundancy. Consultation with the employee includes exploring alternatives to redundancy prior to taking the decision to make the role redundant. Specific statutory information and consultation obligations also arise in the context of collective redundancies. Where an employee has been unfairly dismissed, they may be awarded up to two years' remuneration in compensation and/or be reinstated/re-engaged.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees with at least two years' continuous and reckonable service are entitled to a statutory redundancy payment calculated as follows: two weeks' normal remuneration for each year of continuous and reckonable service, plus one weeks' normal weekly remuneration (often referred to as a bonus week). The weekly wage for the purposes of the calculation of a statutory redundancy payment is currently subject to a cap of EUR 600 per week. If the total amount of reckonable service is not an exact number of years, the "excess" days must be credited as a proportion of a year. Employees are also entitled to their statutory minimum/contractual notice (whichever is greater) and to payment in lieu of any accrued annual leave. Depending on the circumstances, employees may also have an entitlement to an enhanced redundancy package by virtue of custom and practice or collective agreement.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. An employer would be expected to at least explore the possibility of utilising applicable government support schemes as a potential alternative to redundancy. However, the employer has absolute discretion to determine whether any such schemes are an appropriate or feasible alternative to redundancy.
Are employers subject to separate collective consultation obligations?	Yes. There are separate statutory information and consultation obligations which arise in collective redundancy situations. A collective redundancy arises where, in any period of 30 consecutive days, the number of employees being made redundant is: (i) at least 5 in an establishment normally employing more than 20 and less than 50 employees; (ii) at least 10 in an establishment normally employing at least 50 but less than 100 employees; (iii) at least 10 per cent of the number of employees in an establishment normally employing at least 100 but less than 300 employees; or (iv) at least 30 employees in an establishment normally employing 300 or more employees. In such circumstances, the employer must engage in a 30 day statutory information/consultation process and notify the Minister for Employment Affairs and Social Protection prior to implementing redundancies.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	In relation to an offence committed by the employer, it may argue that there were substantial business related reasons which made it impracticable for it to comply. However, there is no statutory defence to a civil claim for failing to inform and consult (see the response below in relation to offences and statutory claims). There are, however, limited exemptions from the information/consultation requirements which apply to companies in respect of collective redundancies arising from the employer's business being terminated following bankruptcy or winding up proceedings. Specific legal advice should be taken in such circumstances.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Failure to comply with applicable statutory information and consultation obligations in a collective redundancy situation constitutes a criminal offence, with fines of between EUR 5,000 and EUR 250,000 (depending on the nature of the particular breach/failure in question). In addition, where an employer fails to properly inform and consult in a collective redundancy situation, the employee may bring a statutory claim and, if successful, may be awarded up to four weeks' remuneration in compensation.
What alternatives to redundancy dismissal are open to an employer?	This will depend on the circumstances, and the business rationale for the redundancies. It may be appropriate to explore options such as agreed pay cuts, reducing overtime, redeployment, or making other changes to day to day working arrangements or non-contractual policies/benefits.

ROMANIA – Ralf.Peschek@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The wage support scheme for technical unemployment does not prohibit dismissals.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. In addition, severance pay is not linked to seniority. However, statutory protection is available in relation to the termination of certain groups, including: employees on medical/childcare leave; pregnant employees; employees whose contracts are suspended due to quarantine or employees on annual leave.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	There is no statutory severance payment in the event of a redundancy dismissal. However, if a collective bargaining agreement ("**CBA**") is in place and it includes references to severance payments, the employer will be bound by those obligations. In practice, employers generally pay some level of severance pay on a voluntary basis even if no CBA is in place or it contains no provisions regarding severance.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Employers are not legally required to apply for a support scheme before initiating redundancy dismissals. However, on the basis that the government has taken measures to support employers to remain operational during the Coronavirus pandemic, depending on the nature of the company and its industry, employers should try to take less drastic steps initially (e.g. suspension of the employment relationship during technical unemployment) before terminating employment agreements.
Are employers subject to separate collective consultation obligations?	Yes, consultation is required if the dismissal qualifies as a collective dismissal. A collective dismissal is the termination by the employer of an employment relationship within 30 calendar days, of (i) at least 10 employees, if the employer employs more than 20 employees and less than 100 employees, (ii) at least 10% of the employees, if the employer employs at least 100 employees but less than 300 employees and (iii) at least 30 employees, if the employer employs at least 300 employees. Consultation should be with the employees' representatives or the trade union. If no representative body exists, the consultation should take place with all employees. The minimum duration of consultations is 15 days. There is no requirement to reach an agreement with the employees during consultation. Consultation relates to the number of positions and categories of employees affected by the dismissals, justification for the dismissals, selection criteria and measures taken to mitigate the consequences of the collective dismissal.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Employees may challenge the legality of dismissals in court and, if successful, the court will void the dismissals. The voiding only affects those employees bringing a claim. If an employee requests that the court makes an order for reinstatement, the employer would be required to reinstate the employee and pay all outstanding salary calculated from the date of dismissal until the date of reinstatement.
What alternatives to redundancy dismissal are open to an employer?	The employer may unilaterally suspend individual employment agreements due to technical unemployment (furlough) or reduce work schedules from 5 days per week to 4 days per week with a pro rata reduction of salaries. Reduction of working time under different conditions requires employee consent(a measure similar to *Kurzarbeit* is not regulated in Romania). Employers may also grant paid days-off against which future overtime hours spent by employees in the next 12 months will be set off. Other potential measures may be to use accrued annual leave (consent is required); unpaid leave (consent is required); or secondment (in Romanian *detasare*) to other employers in need of personnel (personnel sharing) (consent is required if such secondment is for over 1 year).

RUSSIA – Nadezhda Ilyushina (Nadezhda.Ilyushina@bclplaw.com)

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	On 25 March 2020, the Russian President introduced a regime of non-working days which took effect on 30 April 2020 and is still in operation. The regime of non-working days applies to most Russian employers, with very few companies exempt from it. Companies which are exempt include, for example, continuously operating organisations, healthcare institutions and pharmacies, organisations supplying the public with food products and selling essential goods. During the period of non-working days, employees receive their regular salary. A company that falls under the regime of non-working days cannot dismiss employees during this period. There is currently no comprehensive government support available for employers. Small and medium sized enterprises carrying out their activities in impacted sectors may receive a grant for paying wages. In order to receive the grant, the employer must retain at least 90% of its workforce. The Russian Prime Minister has announced that increased attention will be given by prosecutors and the labour and tax authorities to cases of illegal dismissal and/or the violation of employees' rights during the Coronavirus pandemic.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	There is no concept of qualifying period of employment. Employees of the companies to which the regime of non-working days applies are protected against redundancy while the regime remains in effect.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	In the event of a dismissal on the grounds of redundancy, a redundant employee must be paid, in total, the following: (i) salary for the notification period amounting to two months' pay; (ii) severance pay of one average monthly salary; (iii) severance pay of the average monthly salary if the employee remains unemployed for two months after the dismissal and; (iv) in exceptional cases, severance pay of an average monthly salary for a third month of unemployment, if prescribed by the Employment Centre, provided that the employee registered with the Centre within two weeks of termination and did not obtain employment with the assistance of the Centre.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	An employer that is caught by the regime of non-working days cannot dismiss employees due to redundancy while the regime remains in effect. In addition, an employer which is a small or medium-sized enterprise and operates in the impacted sectors, will not receive the grant for paying salaries to its employees if it dismisses more than 10 percent of its workforce.
Are employers subject to separate collective consultation obligations?	No, unless either a primary trade union is established or local regulatory acts and/or collective bargaining agreement stipulate otherwise. Specific rules are established in relation to the dismissal of those employees who are trade union members, leaders or their deputies. An employer must take into account the opinion of the primary trade union in order to dismiss employees who are trade union members. Termination of a trade union leader's employment contract on the grounds of redundancy is allowed with the approval of the superior trade union organisation (if any).
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No, an employer shall comply in full with the redundancy procedure prescribed by the Labour Code of the Russian Federation. Failure to comply will result in a risk of administrative liability or the redundancy being recognised as illegal and the dismissed employees being reinstated.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	For violation of labour legislation (including those related to termination of employment) an employer could be subject to a fine of up to RUB 50,000,00 and its officials could be subject to a fine of up to RUB 5,000,00. Furthermore, if an employer is required to consult and fails to do so it may result in the voiding of the dismissal and the reinstatement of the employee by the court.
What alternatives to redundancy dismissal are open to an employer?	An employer could consider entering into a mutual termination agreement with the employee. In order to retain employment, the employer and the employee may agree to a reduction in working hours and salary, the employee taking unpaid or annual paid leave and the introduction of downtime in relation to such employee (to the extent possible according to the current regime of non-working days in Russia).

SERBIA – Milos.Andjelkovic@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	The government's Fiscal and Direct Benefits Decree provides support to privately-owned companies that have not decreased their workforce numbers by more than 10% in the period from 15 March until 10 April 2020. Employers receiving benefits under this decree are obliged to maintain their workforce numbers until the expiry of a 3 month period from the date of the last benefit payment.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	There is no such protection. However, certain forms of protection against redundancy are available to trade union representatives, employees on parental leave, disabled employees and employees on sick leave.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Redundancy dismissal triggers a mandatory severance payment that cannot be lower than the cumulative amount of 1/3 of the impacted employee's average monthly salary for each full year of service (years of service with a previous employer are included, but only to the extent such previous employer is a related party to the dismissing employer).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	An employer applying for the government support scheme needs to assess the impact of potential dismissals in light of the scheme requirements. An employer may become obliged to reimburse the entire amount, increased by statutory interest, if it does not act in accordance with scheme requirements.
Are employers subject to separate collective consultation obligations?	An employer has a general obligation to notify the trade unions or works council in the event of any operational changes that impact the status of employees. If no trade unions/works council have been established, the employer must fulfil this duty by notifying the employees directly. A special duty to consult applies in the event of mass dismissals. The threshold for mass dismissals is triggered if an employer plans to declare redundant, within at least 30 days: (i) 10 employees, if more than 20 but less than 100 indefinite term employees are employed; (ii) 10% of the employees, if at least 100 but less than 300 indefinite term employees are employed; (iii) 30 employees, if more than 300 indefinite term employees are employed and; (iv) 20 or more indefinite term employees are declared redundant within a 90 day period, regardless of the number of employees employed. In these circumstances, an employer must prepare a 'redundancy program' and file it with the representative trade union(s) and the Serbian National Employment Office in order to receive their opinions, although these opinions are not binding on the employer.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Failure to adopt the redundancy program procedure may result in a monetary fine of up to approximately EUR 18,220 for the employer and any responsible person. In addition, such a failure may result in employees successfully contesting the dismissal before a court.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns with employee consent. If employee consent is not obtained the employer will be exposed to numerous potential claims (e.g. breach of contract, unlawful deduction from wages etc.). Introducing such changes also triggers collective consultation obligations.

SINGAPORE – Manoj Purush (Manoj.Purush@bclplaw.com)

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	No. However, the benefits under the Job Support Scheme are calculated on the basis of the wages of the employees. Dismissing the employees will result in a reduction of the wages and therefore a reduction of the benefits obtainable under the Job Support Scheme.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Employees have the right not to be wrongfully dismissed. While redundancy is a valid reason for dismissing an employee on notice, employers must do so responsibly and fairly (e.g. based on objective criteria, such as the ability to contribute to the company's future business needs, without discriminating against any particular group). For managers and executives who were dismissed with notice or salary in lieu of notice, they can only submit a wrongful dismissal claim if they have been employed by their employer for at least 6 months.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	There are no statutory requirements with respect to redundancy payments. The employee is only entitled to the redundancy payment if it is provided under the employment contract (and these are uncommon). Under the Tripartite Advisory On Managing Excess Manpower (which employers are encouraged to follow), employees who have been employed for at least 2 years are eligible for retrenchment benefits. Those with less than 2 years' service could be granted an ex-gratia payment. A typical retrenchment benefit would be 2 weeks' to 1 month's salary per year of service, depending on the financial position of the company and taking into consideration the industry norm. Employees who are dismissed by reason of redundancy are entitled to their notice pay.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	Yes. The Ministry of Manpower ("**MOM**"), National Trades Union Congress and Singapore National Employers Federation have strongly urged employers to use the Jobs Support Scheme to continue paying salaries during the Coronavirus pandemic and not to resort to redundancy dismissal or prolonged unpaid leave to manage business costs during the pandemic (known as the "Circuit Breaker" period).
	**Are employers subject to separate collective consultation obligations?**	There are no statutory requirements in relation to collective consultation obligations. However, employers who decide to proceed with a redundancy exercise are strongly encouraged to submit a notice of retrenchment to the MOM and consult with their employees prior to implementing any redundancy exercise. Employers can also contact the MOM for advice before they decide to undertake a redundancy exercise. Under the Employment (Retrenchment Reporting) Notification 2019, it is also mandatory for employers (who employ at least 10 employees) to notify the MOM if 5 or more employees are made redundant within a 6 month period. For the first 5 employees to be made redundant, the notification must be submitted within 5 working days after the 5th employee is notified of their redundancy. Thereafter, the notification must be submitted within 5 working days after each additional employee is notified of their redundancy.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	Not applicable. However, MOM has frequently stressed that redundancy during this Coronavirus pandemic should be the last resort and that employers should utilise government subsidies and other flexible measures (such as supporting employees to take on a second job and flexible work arrangements). If an employer can demonstrate that it adopted such measures before undertaking a redundancy exercise, this could be viewed favourably from the MOM's perspective.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	Not applicable. However, a failure to comply with the requirements on the mandatory redundancy notifications under the Employment Act will be a civil contravention, for which administrative penalties can be imposed. Penalties could amount to S1,000 for the first occasion of non-compliance and S2,000 for each subsequent act of non-compliance. The MOM will also investigate complaints of discriminatory employment practices and take strong enforcement action against substantiated complaints, such as curtailing the employer's work pass privileges.
	**What alternatives to redundancy dismissal are open to an employer?**	The Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment suggests training, redeployment, flexible work schedules, shorter working weeks and temporary layoffs as alternatives that an employer should consider. If an employer is facing extremely poor or uncertain business conditions that are likely to be long term, it can consider making direct adjustment to wages (i.e. adjustments to the annual wage increment or monthly variable component). If salaries are impacted the MOM must be notified. During the Coronavirus pandemic, the MOM has simplified the notification process. Notification is only required for Singapore registered employers with more than 10 employees which have implemented cost-saving measures from 7 April 2020 - 1 June 2020 which have resulted in employees' salaries falling below 75% of the gross monthly salary for local employees, or 75% of basic monthly salary for foreign employees.

SLOVAKIA – Jozef.Vircik@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. Applying for state aid under the Coronavirus Job Retention State Aid Program (the "**Program**") is subject to an employer's commitment not to lay off employees on the grounds of redundancy for at least 2 months following the month for which the contribution is provided.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. The Labour Code only provides for protective periods during which an employer may not terminate employees (with exceptions under the Labour Code). These include during sick leave; maternity or parental leave; pregnant employees; or lone employees taking care of a child under the age of three.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employee is entitled to a severance payment where termination, by notice or agreement, is because of redundancy (organisational changes). The amount depends on the employee's length of service. Employee entitlements on redundancy are as follows: (i) their average monthly earnings (if employed for at least 2 years and less than 5 years); (ii) 2 x their average monthly earnings (if employed at least 5 years and less than 10 years); (iii) 3 x their average monthly earnings (if employed at least 10 years and less than 20 years); and (iii) 4 x their average monthly earnings (if employed at least 20 years). Employees are entitled to a severance payment increased by 1 x their average monthly earnings if the termination is by mutual agreement as opposed to by notice (as stated above) and the claim to severance payment in the amount of average monthly earnings arises even if the employment lasted less than 2 years. Furthermore, where termination is by notice, notice periods and the associated employee's wage entitlements apply.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. The Program has been adopted to financially support employers in relation to their employees' wages and to secure job retention during the Coronavirus outbreak. An employer should also use any and all measures adopted by the government to protect businesses, e.g. tax and social contribution deferments, loans covered by government loan guarantees (a form of governmental financial assistance). However, it is at the sole discretion of employers to apply for these measures.
Are employers subject to separate collective consultation obligations?	Yes. In the event of collective redundancies, the employer must consult with employee representatives (or directly with the impacted employees if there are no representatives). Consultation should take place at least one month before the commencement of the collective redundancies and details (i.e. reasons for the collective redundancies) should be delivered to the Labour Authority. Once the consultation has taken place the employer must deliver written information on the results of the consultation to both the employee representatives and the Labour Authority (employees can raise objections through their representatives who will deliver these to the Labour Authority). An employer must wait one month from the date on which it delivers the written information on the results to the Labour Authority before proceeding with the collective redundancies (please note that this period can be reduced by the Labour Authority due to objective reasons).
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. However, in the event of collective redundancies, a failure by an employer to comply with its consultation obligations may lead to employees making a claim and sanctions may be imposed. A failure to comply with consultation obligations will not, however, result in the invalidity of the terminations.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	A penalty of up to EUR 100,000 may be imposed on the employer by the Labour Inspectorate. In addition, the employee subject to dismissal will be entitled to compensation of a minimum of at least 2 x their average monthly earnings. The failure to comply does not, however, result in the dismissals being voided.
What alternatives to redundancy dismissal are open to an employer?	An employer may apply temporary salary reductions and compensation for employees who are unable to perform work in whole or in part or order employees to work from home where feasible. If the state contributions do not remedy the situation, employers may approach employees to amend their employment contracts with further temporary salary reductions in order to ensure the survival of the company.

SLOVENIA – Teja.Balazic-Jerovsek@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The applicable anti-coronavirus package ("**PKP1**") does not include any prohibitions on an employer ultimately dismissing employees despite having obtained the benefit under PKP1. A limitation on dismissals is included in the second anti-coronavirus package ("**PKP2**"), which is currently pending before the National Assembly. According to the Bill, the restriction should only apply in limited cases when the employer opts for receiving benefits exceeding EUR 800,000. Prohibition on dismissals will not apply up to this threshold. Final details should be verified once the Bill becomes law.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No such protection is available. Certain forms of protection against redundancy is provided to certain workers' representatives, older employees, employees on parental leave, disabled employees and employees on sick leave.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who have at least 1 year of continuous employment with the employer are entitled to a statutory severance payment. The amount depends on: (i) the employee's average salary in the last three months ("**basis**") and, (ii) their length of service. The payment is capped at 10 x the basis, unless the employment contract or collective agreement provides otherwise. Severance is calculated by reference to (i) the basis, (ii) years of service with the employer, and (iii) an applicable multiplier: 1/5 (for more than 1 and up to 10 years of service); 1/4 (for more than 10 and up to 20 years of service); and 1/3 (for more than 20 years of service). If an employer operates an enhanced contractual redundancy scheme, it will also need to be mindful of its obligations under that scheme. Further, an employer must adhere to relevant provisions of any collective agreement.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. An employer should (at least) consider applying for benefits under PKP1/2 before taking steps to dismiss employees by reason of redundancy (i.e. the dismissal should be the last resort). Failure to do so may expose the employer to a successful unlawful dismissal claim.
Are employers subject to separate collective consultation obligations?	Yes, if dismissals meet the thresholds of mass redundancy (i.e. dismissal of at least 10 employees out of a total of 20 within a 30 day's period – the threshold increases with the total number of employees), an employer must comply with: (i) collective redundancy consultation obligations with the trade union in accordance with the Employment Relationship Act; and (ii) seek consent of the works council in accordance with the Worker Participation in Management Act. Consultation with the trade union must be meaningful and with a view to reaching an agreement on the selection criteria and redundancy programme. The employer must also inform the Employment Service of Slovenia in writing of the procedure for establishing mass redundancies and on consultations with the trade unions. Notice letters should not be served to employees before the expiration of 30 days from the day of notification to the Employment Service of Slovenia. The Employment Service of Slovenia may extend the blocking period to 60 days.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Employees can challenge the legality of a dismissal in court, and an employer may be sanctioned with a fine ranging between EUR 3,000 to EUR 20,000 and its responsible person may be sanctioned with a fine ranging between EUR 450 to EUR 2,000.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or make other changes to existing working patterns (with employee consent). If such changes are made without employee consent, the employer will be exposed to numerous potential claims (e.g. breach of contract, unlawful deduction from wages etc.). Introducing such changes may trigger collective consultation obligations. An employer can also temporarily lay-off some or all of its employees or instruct them to work from home, during which time they shall receive 80 % of their regular salary.

SOUTH AFRICA – Yeleni.Bruinders@bowmanslaw.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The Temporary Employee Relief Scheme ("**TERS**") does not include prohibitions on an employer ultimately dismissing employees despite having obtained the benefit of the scheme.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	All employees have the right not to be unfairly dismissed. Redundancy is a potentially fair reason for dismissal. However, an employer must ensure that it follows a fair process when carrying out such a dismissal. For example, an objective selection criteria must be used, employees must be consulted (consultation must be meaningful and with a view to reaching agreement), and alternative measures must be considered. The length of service may be considered where an employer decides to apply the principle of "last in first out" ("**LIFO**") as its selection criterion. The primary remedy for unfair dismissal is reinstatement. Alternatively, employees are entitled to compensation up to a maximum of 12 months' remuneration, or 24 months' remuneration for automatically unfair dismissals.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employer is required to pay an employee severance pay equal to at least 1 week's remuneration for every completed year of continuous service. However, where company practice offers more than the statutory minimum then employers must apply that payment consistently. In addition, employers can enter into agreements with employees where they offer an enhanced severance payment in exchange for certain waivers from the employee.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. The government has encouraged businesses to support employees during the Coronavirus pandemic. Where possible, instead of laying-off employees, employers are encouraged to utilise the government's assistance through the TERS. Employers must therefore consider available measures (other than dismissal) before embarking on a retrenchment exercise.
Are employers subject to separate collective consultation obligations?	Yes. An employer is required to consult with the affected employees and (where applicable) consult with the representative trade unions of the affected employees, workplace forums and anyone they are obligated to consult with in terms of a collective agreement. Under the Labour Relations Act, there is an additional requirement regarding "large-scale" redundancies. A "large-scale" redundancy occurs when the number of employees that the employer contemplates making redundant (or the number of employees that the employer contemplates making redundant together with the number of employees made redundant by the employer in the past 12 months) reaches a certain threshold (see below). In such a scenario employers are required to consult with the relevant parties for a minimum period of 60 days. In addition, parties can request a facilitator from the Commission for Conciliation, Mediation and Arbitration (the "**CCMA**"). These thresholds are at least: (i) 10 employees, if the employer employs more than 50 employees and up to 200 employees; (ii) 20 employees, if the employer employs more than 200 but less than 300 employees; (iii) 30 employees, if the employer employs more than 300 but less than 400 employees; (iv) 40 employees, if the employer employs more than 400 but less than 500 employees; (v) or 50 employees, if the employer employs more than 500 employees.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	There are no legally recognised defences for non-compliance with consultation obligations. However, the courts have accepted that it is a reasonable justification not to follow consultation obligations where an employer can prove that it attempted to conduct a consultation process over a reasonable period of time but the trade union intentionally and unreasonably delayed and frustrated the consultation process by making unreasonable demands or failing to participate in consultations.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Where an employer fails to follow a fair process, the affected employees may bring a claim of unfair dismissal against the employer. Employees are entitled to compensation up to a maximum of 12 months' remuneration.
What alternatives to redundancy dismissal are open to an employer?	Please see the answer above in relation to the United Kingdom.

SOUTH KOREA – William.Kim@leeko.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. There are no restrictions on terminating an employee during a business suspension period. An employer may terminate an employee for just-cause. However, an employer will become ineligible for the business suspension subsidies if, by reason of deteriorating financial circumstances, the employer: (i) unilaterally terminates individual employees; (ii) executes negotiated separations; or (iii) initiates lay-offs. These restrictions will apply for the duration of the business suspension in respect of which the employer is receiving the subsidy and 30 days after the end of that period. However, an employer may dismiss an employee for just cause. An employer may consider (i) the business suspension of entire functions or (ii) on an individual basis, the unilateral reduction of an employee's working hours, provided the employer continues to pay at least 70% of the employee's average wage during the suspension period. The government provides a subsidy ranging from 50% to 66.6% (the "**Employment Subsidy**") of the 70% of salary payable by the employer during the suspension period. In some cases, employers may be eligible to receive up to 90% of the 70% payable under the increased Employment Subsidy. Employers should note that the subsidy is limited to KRW 66,000 per employee per day for up to 180 days in a one year period.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Employees working for an employer with a workforce of 5 or more employees are protected by the just-cause termination standard. Redundancy does not constitute just-cause on the basis that the termination is not a "cause attributable to the employee." In the event of a broader lay-off, an employer must satisfy the requirements under the Labor Standards Act to meet the just-cause standard. A lay-off requires two key elements: (i) imminent business necessity, and (ii) efforts to avoid lay-off. An imminent business necessity is a situation where the company may face closure if a headcount reduction and reduced costs are not achieved. Efforts to avoid a lay-off include wage/recruitment freezes, agreements to reduce hours/salary/unpaid leave, business suspensions and mutual separation agreements (i.e. early retirement packages).
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	There is no specific statutory redundancy compensation payable by the employer to an employee who is dismissed by reason of redundancy. In the event of a termination, an employee is entitled to the following: (i) salary up until the effective date of termination; (ii) payment in lieu of accrued but untaken annual leave; (iii) statutory severance or pension (assuming that the employee worked for the employer for at least 1 year); and (iv) pay in lieu of 30 days' notice (if the employer terminated the employee without providing 30 days' notice). As part of the lay-off process (and the measures to avoid a lay-off), employers often offer early retirement packages (i.e. additional compensation beyond the statutory payments to incentivise an employee to resign under a separation agreement).
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Please see the answer to the first question above.
Are employers subject to separate collective consultation obligations?	With regard to consultation, notices, and approvals for lay-offs, an employer must: (i) consult in good faith with the employee representatives on matters related to the lay-off; (ii) provide 50 days' written notice of the lay-off to the employee representatives; (iii) serve individual termination notices to the employees at least 30 days in advance of termination; and (iv) submit a report to the Ministry of Employment & Labor, if 10% or more of the total workforce will be laid off.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	If the employer does not meet all the lay-off requirements, the lay-off (and the termination of the employees) will be unlawful. Therefore, if the employer fails to consult in good faith with the employee representatives or fails to provide at least 50 days' notice of the lay-off to the employee representatives, the lay-off would, in principle, be unlawful. However, if the employer attempts to consult with the employee representatives (or the majority labour union, if one exists) but the employee representatives (or the labour union) refuse to meet, the failure to consult may not be deemed to be a procedural error by the employer.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	There is no sanction for an employer's failure to consult with the employee representatives/labour union (if majority). However, the lay-off would, in principle, be held unlawful on procedural grounds. If the lay-off terminations are unlawful, the remedies would be reinstatement and back-pay. Furthermore, if the "failure" to consult was intentional and possibly malicious, the employer could be held liable for civil damages.
What alternatives to redundancy dismissal are open to an employer?	The most common alternative is a mutual separation agreement, which may be more economical than trying to satisfy the lay-off requirements.

SPAIN – Isuarez@suarezdevivero.com

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	Measures providing for flexibility of temporary activity have been introduced by the Royal-Decree Law 8/2020 (The "**Decree**"). The aim of these mechanisms is to avoid dismissals. The Decree includes special conditions regarding the procedures for Temporary Workforce Restructuring File ("**ERTE**"). These special conditions have been implemented due to the Coronavirus and provide an unemployment benefit for employees impacted by such an ERTE. The measures introduced by the Decree are subject to the employer maintaining employment for a period of 6 months from the date of resumption of activity.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Employees that have completed their probationary period have the right not to be unfairly dismissed. If an employee is unfairly dismissed after their probationary period, the court can order the employer to pay severance compensation for unfair dismissal (see below). This protection applies to all employees and does not require a qualifying period of employment (provided that the employee has finished their probationary period). In addition, employers cannot terminate an employment contract due to force majeure or for objective reasons relating to the Coronavirus (economic, productive, technical and organisational). Such terminations will be unfair.
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	Where a dismissal is based on objective reasons, the employer should, when providing the dismissal letter, transfer a severance payment or provide a cheque to the employee which is equivalent to 20 days' pay per year of service, subject to a maximum of 12 months' pay. In the event that the dismissal is unfair, the severance payment should be the equivalent of 33 days salary per year of service, subject to a maximum of 24 months' pay.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	Yes. It is not possible to terminate an employment contract due to force majeure or objective reasons (economic, productive, technical or organisational causes) due to the Coronavirus pandemic. If an employee does terminate an employment contract for these reasons the termination will be unfair. Employers should therefore consider making an ERTE in relation to its employees before dismissing.
	**Are employers subject to separate collective consultation obligations?**	Employers are subject to collective consultation obligations in the event of a collective dismissal or collective change in substantial labour conditions. The collective consultation obligations will apply when, within a period of 90 days, the change or dismissal impacts at least; (i) 10 employees in companies with less than 100 workers; (ii) 10% of the employees in a company which has between 100 and 300 workers; and (iii) 30 employees in companies with 300 or more workers. A dismissal will also be considered collective if the company has more than 5 employees and, due to a total cessation of its business activity, the company decides to dismiss all of its employees. In addition, employers will be subject to a consultation period if they make an ERTE due to economic, organisational, technical or productive reasons.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	No. If an employer is subject to collective consultation obligations and fails to comply, any measure applied will be null and void. It is not necessary to undertake collective consultation if the ERTE is due to force majeure for Coronavirus reasons.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	If an employer is subject to collective consultation obligations and fails to comply or does not adhere to the required procedure, any measure applied could be declared null and void by the court. If an employer fails to comply in the event of an ERTE due to economic, organisational, technical or productive reasons, the Labour Authority or the Inspectorate of Work and Social Security could declare the ERTE null and void.
	**What alternatives to redundancy dismissal are open to an employer?**	Employers can make an ERTE due to the Coronavirus by temporarily reducing working hours or suspending temporary employment contracts. Employers can also implement substantial modifications to working conditions if those modifications are based on economic, technical, organisational or production reasons. Changes that are considered to be substantial modifications of employment conditions are; (i) working day changes; (ii) timetable and working time distribution; (iii) shift work regime; (iv) remuneration and salary payment system; (v) performance and work system; and (vi) functions when it exceeds the expected boundaries of functional mobility.

SWEDEN – Fredrik.Dahl@vinge.se

Issue		Advice
	**Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?**	No. All state support will continue, with adjustments, even if redundancies are required.
	**Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?**	Yes. Employers should select employees to be made redundant based on the seniority principle of "first in-last out". Employers must offer senior employees positions held by more junior employees within the organisation in lieu of redundancy in order to comply with this principle, provided that the senior employees have the necessary qualifications. Any errors found in a redeployment investigation will render the termination unlawful and an employer may be found liable to pay financial damages of up to 32 months' salary (capped at a maximum amount depending on seniority).
	**What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?**	Employers should observe the applicable legal notice periods which vary depending on the method used and the individual's employment agreement. There are no legal regulations on severance pay however it may be required in order to avoid a strict application of the "first in-last out" principle.
	**Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?**	Yes. The purpose of Sweden's available support schemes are to avoid redundancies. Employers should consider the government's support schemes on the reduction of working hours by up to 60 % (during May – July 2020 by up to 80 %) under which the government will cover up to 53 % (up to 70 % for May – July 2020) of salary costs. Employers should also note that social security charges have been reduced from 31 % to 11 % during April – July 2020 for businesses with up to 30 employees.
	**Are employers subject to separate collective consultation obligations?**	Yes, ordinary consultation obligations will have to take place before any redundancies can be implemented.
	**If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?**	Consultations can be avoided only in very specific circumstances and even if the Coronavirus pandemic is deemed to be an extraordinary situation, the obligation to consult should not be neglected. Employers may require consultation to be quicker than usual and, to the extent that trade unions try to delay the consultation process, employers can withdraw from the consultations.
	**If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?**	Employers should note that punitive damages can be awarded up to an amount of SEK 150,000 per trade union.
	**What alternatives to redundancy dismissal are open to an employer?**	The state support schemes could be an alternative to redundancy. Employers should also consider the possibility of obtaining employee consent to temporary reductions in working hours and salaries. However, this option is only available for companies not bound by a collective bargaining agreement.

SWITZERLAND – A.Neukom@thouvenin.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. However, short-time work compensation cannot be applied when an employee's notice period is already running. The general restrictions in relation to dismissing an employee continue to apply during the Coronavirus pandemic.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	There is no concept of a "qualifying period". There is, however, the concept of a probationary period. The probationary period extends for a maximum of 3 months from the commencement of employment, during which both the employer and the employee can terminate by a shorter notice period (typically 7 days). Save for the procedure set out below in relation to mass redundancies, there is no special protection in relation to redundancy dismissals. However, the grounds which protect an employee from dismissal in general, such as illness, accident, maternity, military service etc, or grounds giving rise to unlawful-dismissal claims, also apply in relation to redundancy dismissals.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	Employees who are dismissed by reason of redundancy are entitled to their notice period. Depending on how many employees are affected, the employer should consider the terms of any social plan (if applicable) and, if so, any measures related to redundancies. If an employer operates an enhanced contractual redundancy scheme, it will also need to be mindful of its obligations under that scheme. Even if such scheme is non-contractual, employees may seek to argue that they have an entitlement under it.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. The short-time compensation scheme is designed for employers who are considering dismissing an employee due to a temporary closure of the workplace or due to a downturn in work.
Are employers subject to separate collective consultation obligations?	Yes. Where an employer is proposing to dismiss a certain number of employees at one establishment within a 30 day period, it must comply with collective consultation obligations under the Swiss Code of Obligations. The number of dismissals required for the collective consultation obligations to apply are as follows (please note the employee numbers given refer to the average number of persons employed by the employer during the previous 12 month period); (i) 0-20 employees, collective consultation doesn't apply; (ii) 21- 99 employees, 10 or more dismissals; (iii) 100-299 employees, 10% or more of the employees dismissed and; (iv) 300 or more employees, more than 30 dismissals. Consultation must be carried out with elected representatives (or the employees themselves when there are no elected representatives). The consultation must take place early enough to give the elected representatives (or employees) an opportunity to formulate proposals on how to avoid redundancies/ limit their number and how any consequences can be mitigated. Consultation must be meaningful and with a view to reaching agreement. Moreover, the employer must inform the competent cantonal authorities of the results of the consultation.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. Where notice to terminate an employment relationship has been given within the context of mass redundancies, the dismissal is not effective until at least 30 days after the date on which the cantonal employment office were notified of the mass redundancies unless such notice of termination takes effect at a later date pursuant to statutory or contractual provisions.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	See above. If the employer fails to comply with its consultation obligations in the context of mass redundancies, the notice of termination given to the employees will be considered unlawful. The Court will determine the compensation payable to the employees who objected to the termination in writing by looking at all the circumstances, although the compensation payable must not exceed an amount equivalent to two months' salary for each employee.
What alternatives to redundancy dismissal are open to an employer?	An employer can seek to reduce salaries or working hours or change working patterns. If employee consent is not received, the employer can consider dismissals with the option of altering the conditions of employment. If so, any unilateral alteration of the material terms and conditions (e.g. the terms relating to job profile, compensation or other financial benefits) of the employment contract will be deemed to be a dismissal while also offering a new contract with modified terms ("**Unilateral Modification**"). Unilateral Modification is generally accepted as valid and binding, provided that the amended provisions do not apply prior to the expiry of the employee's contractual or statutory notice period. However, a Unilateral Modification may qualify as abusive and give rise to a penalty payment. If several employees are impacted, an employer should consider whether any mass dismissal procedures/provisions need to be complied with.

TAIWAN – Echoyeh@lexgroup.com.tw

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. The Special Act for Control, Subsidy and Revitalisation under COVID-19 2020 (the "**Act**") does not provide that an employer receiving subsidies from the government will be prohibited from dismissing an employee. However, the Act stipulates that an employer must not dismiss an employee if such an employee is subject to a quarantine or isolation order from the government, or has to care for family members who are subject to a quarantine or isolation order and cannot maintain their daily life independently. However, in any event, dismissals must be for one of the prescribed causes under the Taiwan Labor Standards Act ("**LSA**") and will be subject to review by the regulators or the courts.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	Yes. According to the LSA, an employer cannot dismiss an employee unless it is justified under Articles 11 or 12 of the LSA .There is no qualifying period of employment for the employee to be protected under the LSA. In certain circumstances, redundancy together with other factors, such as operational loss, business contraction, change of business nature or 1 months suspension of business due to force majeure, may constitute a justifiable reason to terminate under Article 11 of the LSA. However, employers must ensure that there are no other suitable positions available for the employees who are being considered for dismissal and should always consider dismissal as a last resort. Failure to do so may result in the courts finding the dismissal to be unjustifiable. If successful, the employee will be reinstated and the employer may be required to pay the employee's salary up to the date of the court judgment, even if the employee failed to undertake any work during this period.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	An employee dismissed for statutory cause is entitled to a severance payment, dependent on the pension scheme enjoyed by the employee. There are 2 pension schemes: (i) the 'old' pension scheme under Article 17 of the LSA and (ii) the 'new' pension scheme under Article 12 of the Labour Pension Act. An employee dismissed under Article 11 of the LSA who is a member of the 'old' pension scheme is entitled to a severance payment of one month's average salary for each year of service with no limitation. An employee dismissed under the 'new' pension scheme shall be entitled to ½ a month's average salary for each year of service up to 6 months.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Employers should consider applying for support from the government before the initiation of any dismissal in order to mitigate the risk of dismissed employees alleging that the dismissal is unjust.
Are employers subject to separate collective consultation obligations?	Yes. An employer is required, under Article 5 of the Act for Worker Protection of Mass Redundancy ("**AWPMR**"), to consult when it is proposing to conduct a mass redundancy. A mass redundancy will occur in the following scenarios: (i) for companies with fewer than 30 employees, termination of more than 10 employees in 60 days; (ii) for companies with 30 or more employees but fewer than 200, termination of more than 1/3rd of employees in 60 days or more than 20 employees in 1 day; (iii) for companies with 200 or more employees but fewer than 500 employees, termination of more than 1/4th of employees in 60 days or more than 50 employees in 1 day; (iv) for companies with 500 or more employees, termination of more than 1/5th of employees in 60 days or more than 80 employees in 1 day and (v) in all cases, the termination of more than 200 employees in 60 days or more than 100 employees in 1 day. If the above thresholds are triggered, the employer is required to consult with the employees within 10 days of submitting the redundancy plan to the competent authority (which needs to be submitted no later than 60 days prior to the termination date). If a consensus cannot be reached, the competent authority will establish a negotiation committee formed by representatives of the employer and the employees. The representatives of the employees will be designated by the union, or the employees' representatives of the labour management meeting (if there is no union). The employer and each employee will be bound by the consensus reached by the negotiation committee.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No. The AWPMR does not provide employers with any defence for a failure to comply with the consultation obligations.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	If the employer breaches its collective consultation obligation, an administrative fine of between NTD 100,000 and NTD 500,000 will be imposed (pursuant to Articles 5 and 18 of the AWPMR).
What alternatives to redundancy dismissal are open to an employer?	An employer may negotiate with employees to agree a reduction in salary and working hours, which should be reported to and recorded by the competent authority. The reduced salary should not be less than the minimum wage (currently NTD 23,800 but amended from time to time). The Ministry of Labour has provided guidelines (and a template agreement) for the reduction of salary and working hours.

UKRAINE – Ralf.Peschek@wolftheiss.com

Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	Yes. An employer receiving state aid due to partial unemployment (which may be provided by the state in certain cases of a temporary reduction of employees' working hours) cannot dismiss employees (based on the most common grounds, including redundancy). This applies for 6 months after the termination of the relevant state aid or, if the state aid was provided for less than 6 months, during the period equal to the period of state aid payment. If the employer violates either of these obligations, it must reimburse all funds received from the relevant state fund.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. However, certain categories of employees including disabled employees, pregnant women, women with children under three years old, single mothers with children under 14 years old or children with disabilities, etc. are generally protected against redundancy. Furthermore, employees cannot be dismissed while they are on sick leave or on annual leave.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	In cases of redundancy, employees should be notified at least 2 months in advance and paid severance pay of an amount equal to at least 1 month's average salary. Collective agreements, employment agreements or other company documents (e.g. internal policies) may provide for additional benefits for employees who are made redundant.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Yes. Due to the absence of clear legal regulation, employers should consider applying for state aid due to partial unemployment before taking steps to make employees redundant.
Are employers subject to separate collective consultation obligations?	Yes. At least three months prior to redundancy, an employer should provide the trade union with information about planned dismissals, including information about the grounds for dismissals, number and categories of employees planned to be dismissed and the timing of the dismissals. An employer should also consult with the trade union regarding the measures aimed at preventing /minimising the dismissal of employees. The employees subject to redundancy and the State Employment Service (in case of mass dismissals) should be notified two months in advance of the planned dismissals. If any employee subject to redundancy is a member of a trade union, the employer should obtain the consent of the trade union for their dismissal.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	No.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	There is a risk that employees or trade unions may challenge the legality of the dismissal. In addition, failure to comply with an obligation to notify the State Employment Service may result in the employer being fined an amount equal to 4 minimal salaries (currently approximately EUR 650). Responsible persons of the employer may also be subject to fines (which are generally relatively insignificant) for certain violations related to consultation with trade unions.
What alternatives to redundancy dismissal are open to an employer?	The employer may decrease salary and/or working hours, or introduce shift work for its employees. In such circumstances, the employer is required to notify the relevant employees 2 months prior to the introduction of planned changes. Employers can avoid the 2 month notice requirement if employee consent is obtained. The above changes may also trigger collective consultation obligations. There is a concept of "standstill" which generally does not require employee consent. The employer is generally obliged to continue paying at least 2/3rd of base salary to non-working employees in the event of a standstill which has not arisen as a result of the employee's fault (including during quarantine). An employer may also agree with employees that they will use paid or unpaid annual leave. The period of unpaid annual leave is unlimited during quarantine. The possibility of receiving state aid can also be considered.

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Issue	Advice
Is there any legislation, order or mandate prohibiting an employer from dismissing an employee in circumstances where the employer has obtained the benefit of Coronavirus government support?	No. Employers are, however, encouraged to explore alternative options prior to considering the termination of an employee's employment. These include the mandatory options outlined below.
Does an employee with a qualifying period of employment have any statutory protection against redundancy dismissal?	No. There is no concept of 'redundancy' in the UAE.
What redundancy compensation is payable to an employee who is dismissed by reason of redundancy?	The only entitlements which terminated employees are entitled to receive are those available in the event of termination given that redundancy is not a recognised concept in the UAE. These entitlements include; (i) an end of service gratuity (based on length of employment and final salary (subject to certain exceptions)); (ii) the cost of the airfare to return to the employee's country of origin (as per their employment contract); and (iii) any other contractual entitlements (e.g. untaken annual leave, payment in lieu of notice, etc.). If an employee is dismissed for any non-performance reasons, he or she may be eligible for up to 3 months full salary compensation as a result of the dismissal, subject to the employee bringing a successful claim.
Should an employer take into consideration a Coronavirus government support scheme before dismissing an employee?	Employees dismissed for Coronavirus related economic reasons are obliged to register those employees on a new online employment platform called the "Virtual Labour Market System" which seeks to pair jobseekers with temporary employment positions.
Are employers subject to separate collective consultation obligations?	No. The concept of collective bargaining and/or collective consultation is not recognised under UAE labour law.
If an employer is subject to collective consultation obligations, is there any defence for a failure to comply?	Not applicable in the UAE.
If an employer is subject to collective consultation obligations, what is the sanction for a failure to comply?	Not applicable in the UAE.
What alternatives to redundancy dismissal are open to an employer?	According to Ministerial Resolution No. 279 of 2020, employers must explore the following options prior to terminating an employee's contract; (i) remote working (with the company providing the tools to work from home); (ii) unpaid leave whereby an employee remains on a company visa and retains medical insurance; (iii) paid leave which can be required by the employer and no consent is required from the employee; (iv) a temporary reduction of an employee's salary; and (v) a permanent reduction in an employee's salary.

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This document provides a general summary only and is not intended to be comprehensive nor to provide bespoke legal advice. The comments in this document are relevant as at the date on which they were provided by the contributing law firms. Given the fast moving nature of the Coronavirus pandemic and that fact that most countries are introducing new legislation and measures on a daily basis to address it, employers will need to adopt a dynamic approach. Specific legal advice should always be sought in relation to the particular facts of a given situation.

Bryan Cave Leighton Paisner (the "BCLP Group") is an international law firm comprised of a network of affiliated firms and entities ("BCLP Firms"). The locations of our offices and further jurisdiction-specific information, including a description of each of the BCLP Firms and where we are authorised and regulated to provide legal services can be found through the country links on our website (please see our legal notice for further details: https://www.bclplaw.com/en-GB/legal-notices/legal-notices.html). In certain jurisdictions (such as Singapore and Mainland China) the firm is licensed as a foreign law firm, and in certain others (such as Indonesia) we do not have a local office and operate a virtual desk supported by local counsel. Where legal services are required concerning other jurisdictions, we will refer the matter to and work with relevant local counsel where necessary. The contact details for those firms that have contributed to this report are included above.

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