

CLIENT ALERT

Restructurings: A Rejuvenation Cure for the Renault Act?

January 14, 2020

The Act of February 13, 1998 (the Renault Act) sets out the rules and procedure all employers from the private sector need to follow in case of restructuring. The rules have not been modified since the Act's adoption (which was largely prompted by the closing of the Renault factory in 1997, causing the redundancy of 3,100 employees).

More than 20 years have passed. An update is due.

On December 17, 2019, the social partners gathered within the National Labour Council (NLC) adopted two recommendations addressed to employers' and unions' representatives of companies and sectors in order to render the Renault Act more effective ([you can find the full text here](#)).

The NLC's Recommendations

Recommendation n°1: A more efficient information-consultation phase

To allow a qualitative and time-limited information-consultation phase, the NLC recommends that employers' and employees' representatives **set a clear timetable** and **agree, in advance, on issues** pertaining to:

- The agenda, time and place of meetings.
- How the questions and answers will be communicated (if in writing, timing of communication, etc.).
- The confidential nature of certain information communicated.
- The requests to involve third parties (*e.g.*, experts).
- The objectification of proposals and alternatives.
- The reasoned reply to any opinion issued.

The NLC also recommends that during the restructuring process, employers' and workers' representatives take measures to "preserve employment, promote the return to work and sustainably consolidate the relaunch of the company's activity."

Finally, employers should inform the employees' representatives about the potential impact of the restructuring on seconded, temporary and interim employees.

Recommendation n°2: Better informed co-contractors

The NLC recommends that companies identify and inform their co-contractors (subcontractors, service providers, etc.) of their intention to restructure (i) if their contractual obligations towards those co-contractors will be modified because of the restructuring, and (ii) if the co-contractors' activities are likely to be negatively and significantly impacted. The information must

occur at the same time or immediately after the announcement of the intention to dismiss (cf. article 6 of the collective labour agreement n° 24).

Employers need also to provide the details of internal contact persons, so that the co-contractors are able to evaluate the possible consequences of the restructuring on the execution of the company's contractual obligations.

Finally, employers should tell the employees' representatives that they have provided the abovementioned information to co-contractors.

Future Work for the NLC

The social partners have also agreed to propose, in the form of a unanimous opinion to the NLC, a centralisation of all the regulatory texts relating to restructuring. In the same opinion, they will suggest the simplification and improvement of the flow of information between authorities, employees and employers, via a one-stop shop and unique information platform.

The two recommendations taken on December 17, 2019 will be evaluated by the NLC three years after the approval of the proposed opinion on the centralization of regulatory texts and improvement of information flows.

What Should Employers Take Away from It?

Regarding **Recommendation n°1**, the Renault Act does not currently foresee any time limits for the information-consultation phase, and this often results in unnecessarily long procedures. Therefore, Recommendation n°1 is to be welcomed and Belgian employers would be well advised to take full advantage of this recommendation and use it to insist on setting a detailed timetable covering a maximum number of arrangements (e.g., the agenda, time and place of meetings, form of communication of questions and answers, whether there can be experts involved, etc.). Having this timetable agreed in advance with the employees' representatives will improve efficiency and clarity, and avoid any discussions afterwards.

It is not very clear what the NLC meant by measures that will "preserve employment, promote the return to work and sustainably consolidate the relaunch of the company's activity." Companies generally already do their best to put in place measures to preserve employment and company activity as much as possible. It is regrettable that the NLC did not provide any examples of what such measures should entail.

Regarding **Recommendation n°2**, informing co-contractors who are – likely to be – adversely affected by a restructuring will help avoid ripple effects on other companies because it will allow those co-contractors to inform their own employees' representatives and anticipate the possible consequences of the restructuring project on their own business and employment. However, this recommendation in fact endorses a practice that many companies undergoing a restructuring already apply.

Our Brussels Labor & Employment practice is available to advise and assist your company throughout the restructuring process. We will continue to closely monitor activity in this area and report on future developments.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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