
labour and employment lawflash

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French Constitutional Court Rules on the “Florange” Law

Court upholds some of the law’s requirements but deems provisions on sanctions to be unconstitutional.

The French Constitutional Court rendered an important decision on 27 March regarding the validity of the so-called “Florange” law, which was adopted by the French Parliament on 24 February 2014 in response to ArcelorMittal’s 2013 closure of the Florange blast furnace in northeast France.

The main measure of this law is the requirement that companies employing more than 1,000 employees in France and/or Europe must research a purchaser in the event that the company contemplates closing a profitable site that could potentially lead to a redundancy exercise.

According to the last version of the law adopted by the French Parliament on 24 February, when a company contemplates closing a site in France under the conditions above, it has to, among other things,

1. inform its work council and the labour administration of its intent to close the site no later than the consultation process for the contemplated collective redundancy exercise;
2. inform, by any appropriate means, the potential purchasers of its intent to sell the site;
3. draft a document presenting the site that provides the necessary information to potential buyers;
4. provide access to any necessary information to companies that want to acquire the site (except if this information could be harmful to the company’s interests or jeopardize its continued activity);
5. take into consideration any purchase offers; and
6. provide a motivated response to each of the purchase offers.

The version of the Florange law reviewed by the Constitutional Court also provided that, if the company refused a purchase offer, its works council could file a claim before the Commercial Court, which would determine if

- the company complied with its obligation to research a purchaser;
- the purchase offers submitted to the company were serious offers, in particular, that the offers could guarantee the company’s sustained activity and current employment at the site;
- the company could legitimately justify a reason to refuse a purchase offer, e.g., that the sale of the site could jeopardize the company’s continued activity.

If the Commercial Court found that the company breached one of these obligations, the Commercial Court could order the company to

1. pay a fine corresponding to a maximum of 20 times the monthly minimum wage per position eliminated (i.e., $20 \times \text{€}1,445.38 = \text{€}28,907.60$ per position eliminated); and/or
2. reimburse the public aids received by the company over the last two years regarding help to installation, economic development, or aid for employment.

The Constitutional Court considered the six obligations listed above and deemed them to be compliant with the

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French Constitution.

However, the court ruled that the obligation to accept a purchase offer in the absence of a legitimate reason as well as the Commercial Court's jurisdiction to sanction any violation of this obligation were provisions that would unnecessarily affect companies' constitutional rights of property and entrepreneurial freedom.

The Constitutional Court also ruled that sanction 1 was out of proportion in light of the obligation sanctioned. However, sanction 2—applicable if a company fails to research a purchaser—was considered to be compliant with the French constitution.

The provisions of the law that were deemed compliant with the French constitution by the Constitutional Court will be applicable as of the publication of the law, which should take place in the next few days.

Contacts

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