

## **Conclusions (to be finally determined after the work of the commission)**

Each country that has replied to the survey of the 4<sup>th</sup> commission has specific legislation or legal framework, resolving questions regarding the reasoning for decisions of layoffs resulting in the termination of employment contracts.

It is compulsory to justify decisions of dismissal (layoff), either before or after the effective date of the decision (depending on the country), within the framework of legal debate.

The benefit of justification prior to the actual dismissal lies in the fact that the employee has the opportunity to check the cause for dismissal and decide whether he or she intends to contest it. The employee thus has an effective remedy in that he is able to estimate the desirability of an appeal.

Conversely, a justification given after the dismissal requires the employee to proceed to trial in order to assess the legitimacy and legality of the motive for dismissal.

Whether the justification is prior or subsequent to the effective dismissal, there must be real and concrete reasoning behind the dismissal decision – under any circumstances.

In this regard, depending on the country, the employer has the opportunity to disclose the grounds (reasons) for the dismissal only during the judicial process, even though these reasons may actually differ from those provided to the employee (by the employer) initially.

But the main distinction between the different countries is manifested in terms of the nature of control that can be exercised by the authority or jurisdiction, which the employer or employee originally approached (at the stage of obtaining permission for the dismissal).

The consequences of the court's decision will indeed be more or less binding for the employer; depending on whether the control proves to be marginal, or, of full jurisdiction (either the judge cannot substitute his own decision for that of the employer regarding the appropriateness of dismissal, or he can).

Thus, a reinstatement of the worker due to the illegality of the dismissal decision or lack of sufficient grounds capable of justifying that decision, can only be made possible as part of full jurisdiction, even if in some countries the legislature has not always deemed it desirable or useful to retain this power of reinstatement, preferring a purely civil nature of compensation combined with civil or criminal sanctions.