

NAVIGATING A CROSS-BORDER RESTRUCTURING PROJECT

a **ADDLESHAW**
g **GODDARD**

MORE IMAGINATION **MORE IMPACT**



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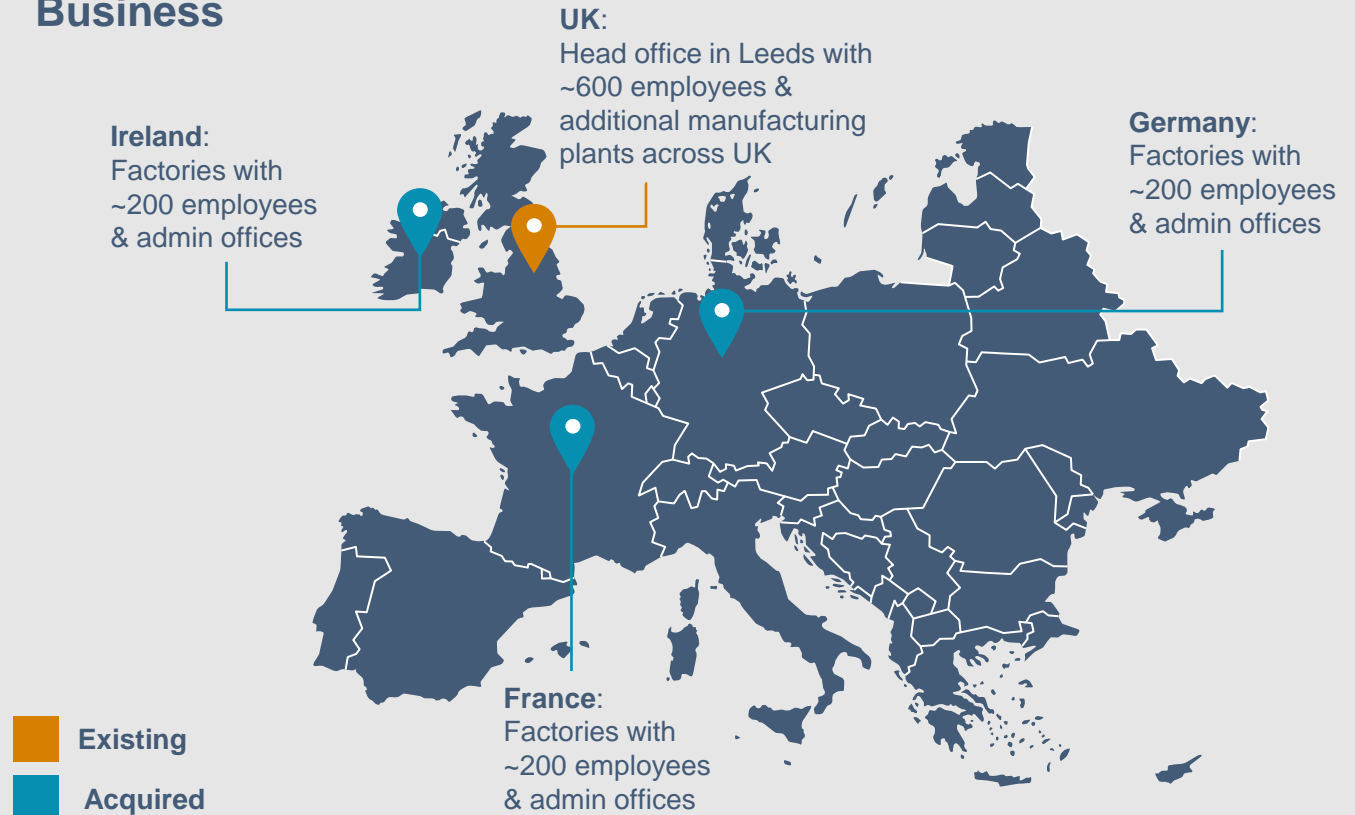
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Managing Associate,
France

SCENARIO

Electrical Goods manufacturer:
Eversparks Electrics Limited



Business



SCENARIO

Electrical Goods manufacturer:
Eversparks Electrics Limited



Integration and Rationalisation across all the jurisdictions



REDUNDANCIES
Reduce headcount
in each country



**INFORMATION AND
CONSULTATION**
EWC in place.
Local works councils in
all jurisdictions



OUTSOURCING
Some of its functions
to different locations
in the future

REDUNDANCY SITUATION



PROPOSED REDUNDANCIES IN ALL JURISDICTIONS

1

8 redundancies in
France

2

35 redundancies in
Germany

3

20 redundancies in
Ireland

4

28 redundancies in the
UK, taking effect across
2024





KEY CONSIDERATIONS IN FRANCE

8 REDUNDANCIES

01

Anticipation of the agendas of the French Works council and the European works council (elections or mandatory negotiation or consultation)

02

Number of roles eliminated (threshold of 10 employees triggering redundancy scheme and severe legal constraint)

03

Anticipation of a frozen period after the consultation process and of the next project of role eliminations

04

How to determine which employees will be dismissed?

KEY CONSIDERATIONS IN GERMANY

35 REDUNDANCIES

01

In Companies with usually more than 20 employees, measure might trigger operational change in legal terms resulting in mandatory negotiation on a reconciliation of interest plan (i.e. on the whether, when and in what form the measure is to be carried out) and a mandatory conclusion of a social plan (i.e. on the compensation for economic disadvantages)

02

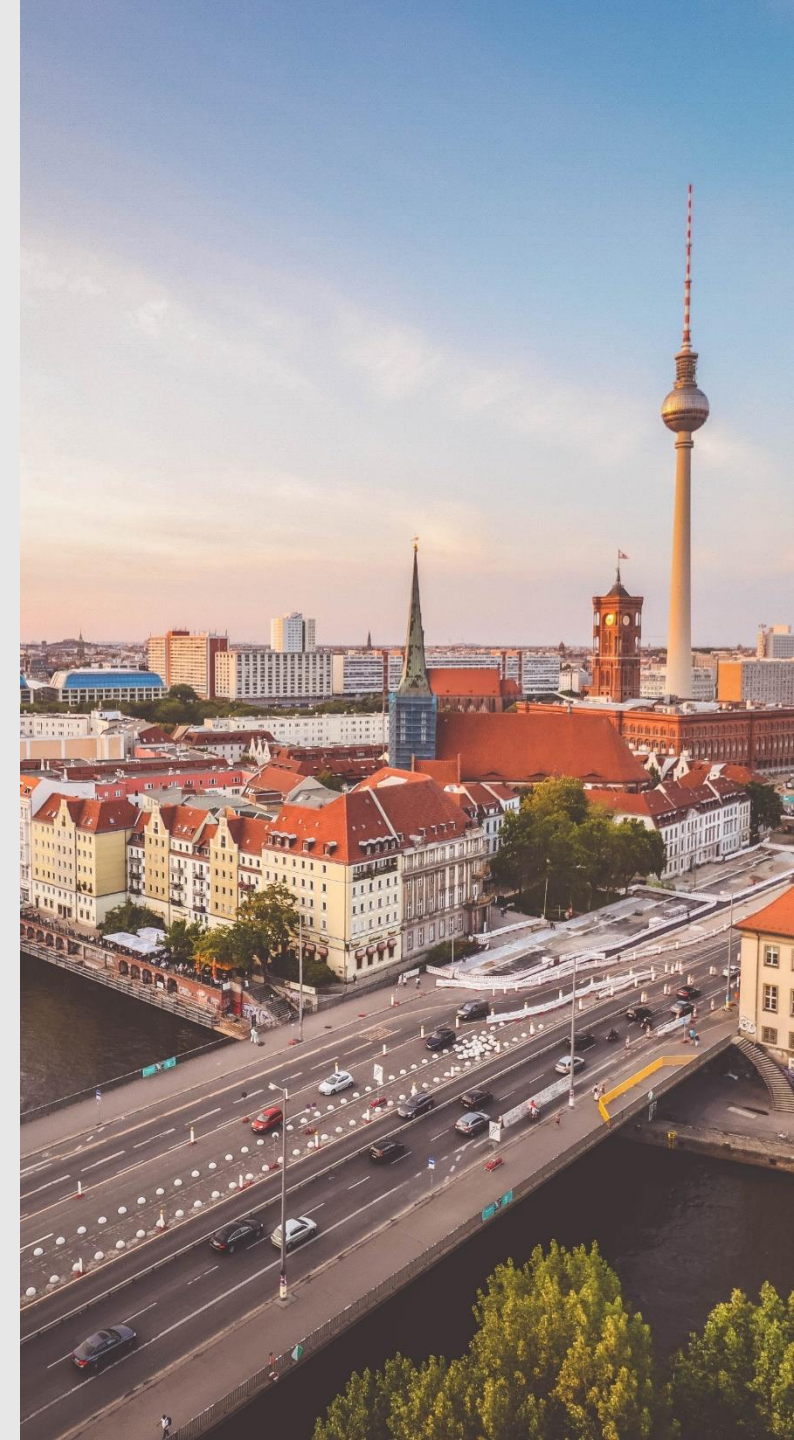
Threshold for collective redundancy may be triggered (10% or more than 25 employees in operations with between 60 and 500 employees within 30 days) resulting in obligation to a mass dismissal notification at the Federal Employment Agency

03

Timing of the intended redundancy in view of mandatory consultation process with works council(s)

04

Cost of redundancy – expectations in view of previous redundancies, framework agreements and market standards within the sector





KEY CONSIDERATIONS IN IRELAND

20 REDUNDANCIES

01

Thresholds for collective redundancy may be triggered – 10% of workforce employing between 100 and 200 employees

02

Timing of the redundancies – 30 days information and consultation and mandatory notice to the Minister (criminal sanctions for breach)

03

Information and consultation - considering mitigation strategies

04

Cost of redundancy – statutory redundancy plus expectations of enhanced redundancy based on custom and practice in the company and the sector

KEY CONSIDERATIONS IN THE UK

28 REDUNDANCIES

01

Collective consultation: When is the obligation to consult triggered?

- Proposing 20 or more dismissals within a period of 90 days
-

02

Obligation to submit HR1: When?

03

When is collective consultation considered to have started?

04

Standing body of representatives: is that sufficient?

05

How to mitigation against disruption / retain employees through the process



OUTSOURCING

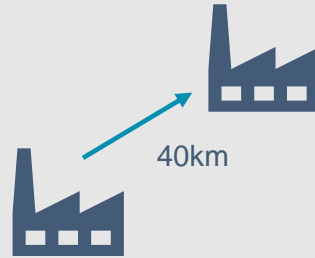


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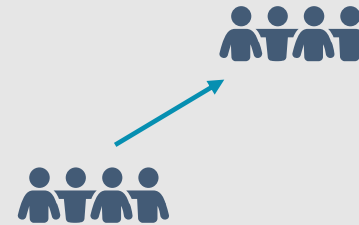


Outsourcing to different locations



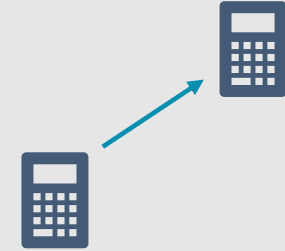
MANUFACTURING PLANTS

Relocate from France to Belgium



HR FUNCTION

Relocate from UK to Irish Entity



ACCOUNTS

Relocate from Germany to external provider in Germany

KEY CONSIDERATIONS IN FRANCE

Relocating plants from France to Belgium

01

Anticipation of the separate timeline of the two operations (redundancies and relocation). Risk of joining the two projects and triggering a redundancy scheme)

02

Consider whether employees may transfer to the contractor as a result of the outsourcing project

03

Audit of the employment contracts and the mobility clauses of the concerned employees

04

Coordination with the local Works Council (anticipation of the different timelines)



KEY CONSIDERATIONS IN GERMANY

Accounts function in Germany to external German provider

01

Does the outsourcing measure triggers a TUPE - transfer of a business (part) while preserving its economic identity

02

Consultation with the economic committee of the works council in companies with more than 100 employees

03

Timing regarding mandatory notification of employees

04

Allocation of liability regarding transferring and objecting employees within the agreement with the outsourcing provider





KEY CONSIDERATIONS IN IRELAND

HR Function from UK to Irish entity

01

Is the HR function a standalone function – a group of organised employees who work on an independent way so does TUPE apply

02

Employees will need Irish law contracts

03

What is the impact on the remaining Irish organisation – ie are there differentials in payroll/benefits?

04

Will there be any knock on redundancies

KEY CONSIDERATIONS IN THE UK

HR Function from UK to Irish entity

01

Key questions:

- Who is doing the work now?
- Are those employees dedicated?
- Who will do the work going forward – inside/outside the business?

02

TUPE does not apply:

- No change in employing entity
- Move into redundancy consultation

03

TUPE applies:

- Change of employer
- Timings for TUPE consultation
- Does it start at same time as redundancy consultation?

04

Other issues:

- Will there be jobs for employees in Ireland?
- If not, who's liability?
- Can you terminate before the transfer?



PROJECT PLANNING – KEY CONSIDERATIONS

PROJECT PLAN



- Co-ordinated approach
- Early planning is key
- Timings
 - Communications
 - Implementation
 - Can anything be deferred?
- Will redundancies in one company impact another?
- Role of EWCs

PROJECT MANAGER



- Clarity on responsibility for each stage
- Roles of the business unit heads
- Internal Legal
- HR
- External Legal



QUESTIONS?



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