



**Pallas**  
employment lawyers

**WEBINAR**  
**“Reorganizations & COVID-19”**



# Necessary planning redundancies

# Reorganization plan

- **Information about the company's current situation:**
  - General information about the company
  - Specific information about the company
- **Reasons for redundancy:**
  - Financial reasons
  - Strategic reasons
  - Economical reasons
  - Commercial reasons
  - Competition
- **Information about the company's future situation:**
  - General future situation
  - Specific future situation
- **Disadvantages of the company's future situation:**
  - Financial disadvantages
  - Strategic disadvantages
  - Economical disadvantages
  - Commercial disadvantages
  - Competition disadvantages
- **Measures to repair disadvantages**
- **Staff inventory**
- **Staff redundancies**
- **Redeployment**
- **Timeline**

# Communication plan

- **Works Council:**
  - How, what, when to communicate with WC
  - Other works councils (EUWC, Central WC)?
  - Statutory obligations
  - Best practices
  - Costs, timing and advisors WC
  - Timeline
- **Labour unions:**
  - Contact persons
  - How, what, when to communicate with Unions
  - Statutory obligations
  - Best practices
  - Social Plan?
  - Timeline
- **Employees not to be made redundant:**
  - When to inform
  - How to inform
  - Timeline
- **Employees to be made redundant:**
  - When to inform
  - How to inform
  - Timeline
- **Key Employees:**
  - When to inform/motivate
  - How to inform/motivate
  - Timeline
- **Third parties:**
  - Shareholders
  - Supervisory Directors
  - Group Companies
  - Press
- **Confidentiality statements**

# Social Plan

- **Procedure when work discontinues:**

- General announcement
- Individual announcement
- Documentation
- Review committee
- Hardship clause
- Redundancy volunteers

- **Inventory personnel:**

- Redundancies
- Scope Social Plan
- Volunteers
- Illness/pregnancies

- **Internal redeployment:**

- Conditions
- Redeployment offer
- Offer acceptance/rejection

- **External redeployment:**

- Conditions
- Redeployment offer
- Offer acceptance/rejection

- **Selection criteria:**

- Selection (mirror) principle
- Employees with special knowledge/skills
- Competences
- Other

- **redundancy procedure:**

- Settlement agreement
- UWV
- Court (judicial review)

- **Severance:**

- Transition payment
- Court formula (?)
- Supplement to state benefit
- Signing bonus
- Notice period
- Bonuses
- Older employees
- Pensions

# Formalities



# Reorganization / Redundancy

## Reasons:

- Financial / economic reasons
- Organizational reasons
- Ultimum remedium

## Sequence:

1. Terminating contractors & agency work
2. Terminating temporary employment contracts
3. Not renewing fixed term employment contracts
4. Terminating indefinite employment contracts

**Redeployment is necessary!!!**

# Termination - Possibilities

- Termination agreement
- Giving notice after having received permit from UWV (Labor Office)
- Both employer and employee may request the court for a revision of the 'redundancy permit' decision

## **Extra protection employees who are:**

- Pregnant
- Ill / Sick
- Works Council member



# Compensation - possibilities

## **Statutory:**

- Respecting statutory notice period
- Statutory transition payment

## **Possible extras:**

- Additional notice period and/or compensation (e.g. signing bonus)
- Supplement to unemployment benefit
- Outplacement

## **Stakeholders:**

- Redundant employees
- Non-redundant employees
- Works Council
- Labor Unions

# Principle of reflection (example)

| 15 -25 | 25-35 | 35-45 | 45-55 | >55 | (Age) |
|--------|-------|-------|-------|-----|-------|
| 11     | 7     | 2     | 1     | 1   | 22    |
| 50     | 31.2  | 9.1   | 4.5   | 4.5 | 100%  |

## Lay-off of 10 employees

| $(50\% \times 10 =)$ | $(31,2\% \times 10 =)$ | $(9,1\% \times 10 =)$ | $(4,5\% \times 10 =)$ | $(4,5\% \times 10 =)$ |    |
|----------------------|------------------------|-----------------------|-----------------------|-----------------------|----|
| 5,0                  | 3,1                    | 0,9                   | 0,5                   | 0,5                   | 10 |

# Collective Redundancy (notifications) Act



## Statutory notification:

- Intention to redundancy for economic reasons
- 20 or more employees
- Within a district of UWV (Labor Office)
- Within a period of three months
  
- An employer must report collective redundancy in writing on time to:
  - UWV (Labor Office) – 1 month waiting period
  - Labor Unions (invitation to social plan negotiations)

# Works Councils / Labor Unions

## **Works Council:**

- Request for advice
- Social consequences (social plan) with request for advice

## ***Risk:***

- appeal with Amsterdam Court of Appeal

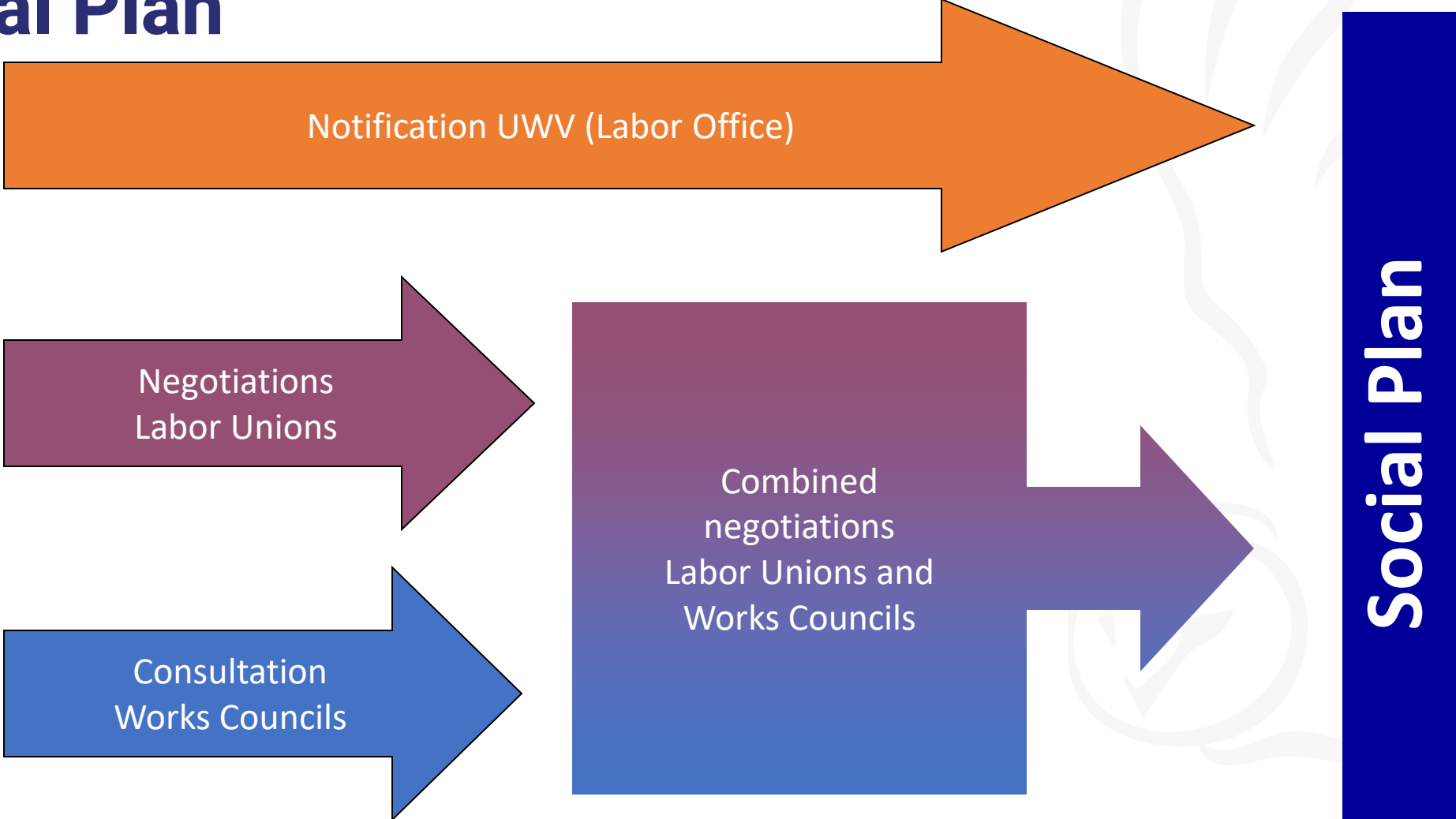
## **Labor Union involvement because:**

- Statutory notification: collective redundancy
- Mandatory notification: collective labour agreement
- Previous involvement
- Labor Union's initiative (e.g. request by works council, or employees)

## ***Risk:***

- Unrest / Strikes

# Social Plan



# Reorganizations & COVID-19

Redundancy due to COVID-19 measures but also thereafter

- Work reduction due to virtual possibilities and less physical tasks
- Motivation for application for dismissal and assessment UWV
- Structural? 26 weeks?

Governmental employers' compensation (NOW) and reorganizations

- Decrease of total payroll and possible consequences for amount NOW-compensation
- Notification of reorganization to the UWV, in absence of such notification: 5% less NOW-compensation
- Best efforts obligations: notify personnel about NOW application, stimulate personnel with development and education and assistance with the move from one job to another
- Restrictions on paying bonus (dividends) to decisionmakers

Sickness/quarantine & timeline application for dismissal UWV

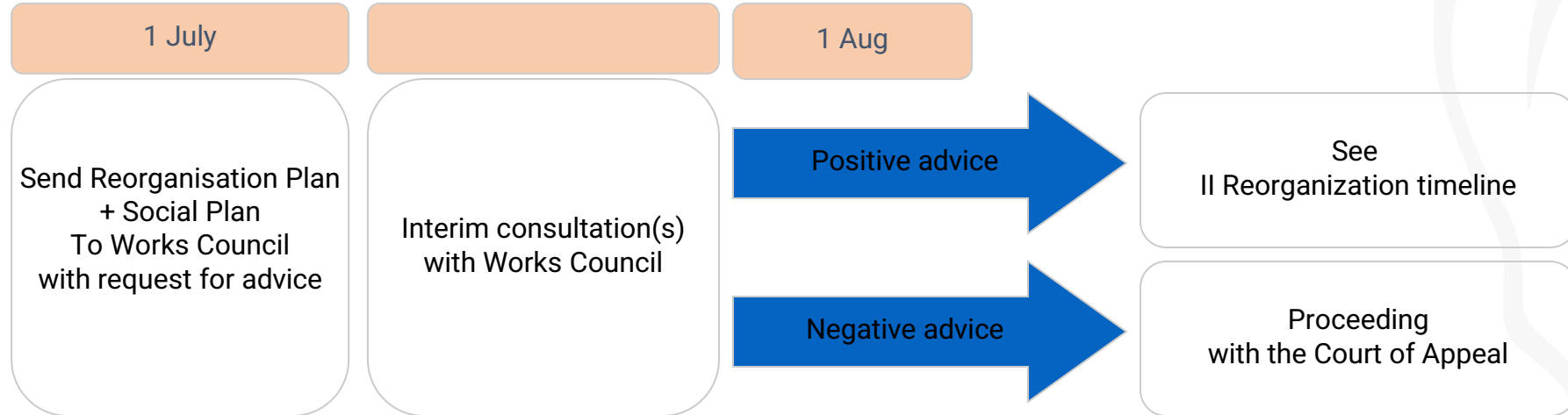
# Execution



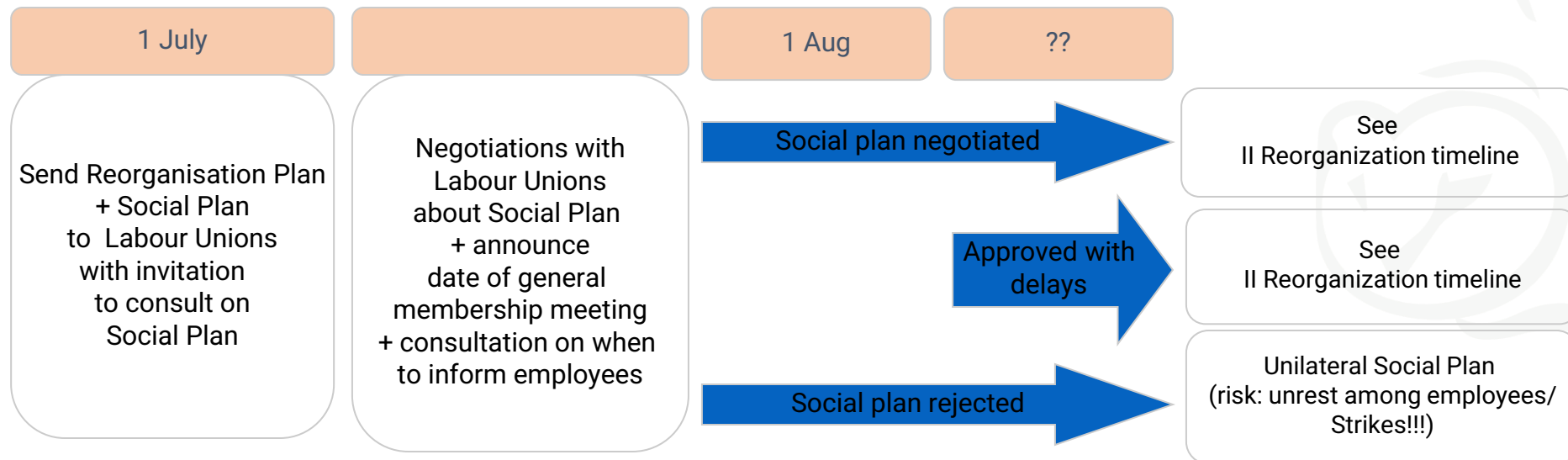
# I WC and Labour Unions Communication timeline



## Works Council



## Labour Unions

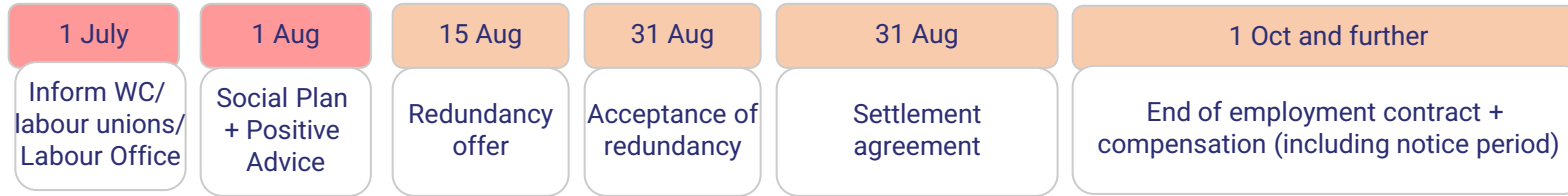




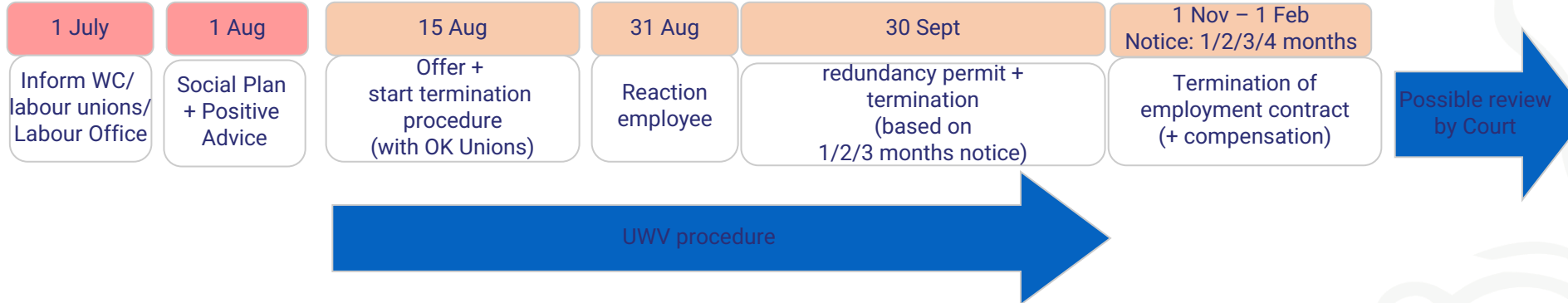
## II Reorganization Timeline



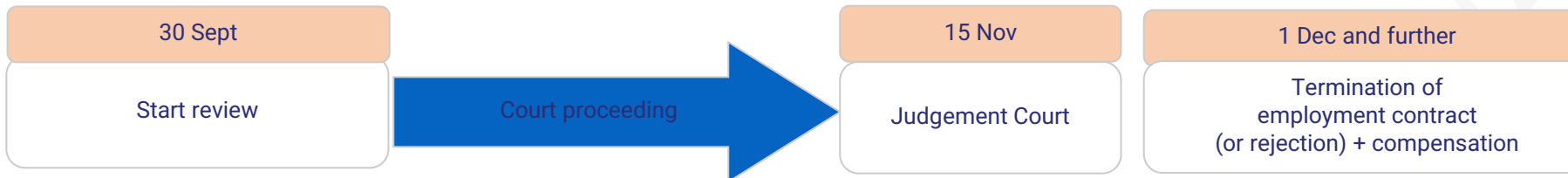
### Settlement Agreement



### Labour Office (UWV)



### Possible review by Court



# Communication / Costs

