



European Monitoring Centre on Change

Austria: Obligation to consider alternatives to collective dismissals

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Austria

Phase:

Management

Type:

Obligation to consider alternatives to collective dismissals

Last modified: 16 May, 2019

Native name:

Arbeitsverfassungsgesetz (ArbVG)

English name:

Labour Constitution Act (ArbVG)

Article

109

Description

In the case of planned changes in the business operation, including collective dismissals (within 30 days, dismissal of at least 5 employees in companies with 21–99 employees, at least 5% of the workforce in companies with 100-600 employees, at least 30 employees in larger firms or at least 5 employees aged 50+), the employer is obliged to inform the works council and, if demanded by the works council, consult on the implementation of the changes, including measures to avoid or reduce collective dismissals.

If the planned changes bring about negative consequences (understood as reduction of the income, longer commuting obligations and job loss) for all or a considerable number of employees in companies with permanently at least 20 staff members, a social plan can be agreed to avoid, reduce or remove the negative consequences for the employees. If the parties fail to agree on a social plan, the works council may refer the case to a public mediation and arbitration board (local labour and social court) consisting of a professional judge, two representatives of the company to be nominated by the employer and the works council and two other members from a list of people nominated to such boards. The board has to decide as quickly as possible, taking into account the interest of the company as well as of the employees. The decision of the board has to be implemented.

Comments

The law does not directly include an obligation to consider alternatives to collective dismissals for employers. However, the obligation to inform and consult the works council before planned changes usually leads to negotiations about the number of dismissals and how jobs can be saved e.g. by reducing working-time etc.

Cost covered by

Not applicable

Involved actors other than national government

- Works council
- Other

Involvement others

- Mediation and arbitration board

Thresholds

- Company size by number of employees:
 - 21
- Number of affected employees:
 - 5

Sources

- 📖 DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring
- 📖 EMCC - Legal framework for restructuring
- 📖 Alpha Consulting (2003), Anticipating and Managing Change - A dynamic approach to the social aspects of corporate restructuring, European Commission, Brussels
- 📖 Arbeitsverfassungsgesetz § 109
- 📖 Arbeiterkammer Österreich (Austrian Chamber of Labour) - Information on the rights of the works council

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