



# EMCC

European Monitoring Centre on Change

## Germany: Employers obligation to support redundant employees

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Germany

Phase:

Management

Type: [Employers obligation to support redundant employees](#)

Last modified: 28 September, 2017

Native name: **Betriebsverfassungsgesetz**

English name: **Works Constitution Act**

### Article

112, 112a, 113

### Description

If an alteration to the business is proposed, the employer must agree with the works council on a social plan (Sozialplan) to compensate those employees dismissed as a result of collective redundancies (dismissal of at least 6 employees in companies with 21-59 workers, at least 10% (or 26) in companies with 60-499 workers, or at least 30 dismissals in larger firms) as well as those employees that remain behind and are affected by the alterations to the business. Following a ruling by the Federal Labour Court from 2015, the social plan shall in particular cover workers at risk of unemployment and pay, for example, for the transfer to a training agency and for the training costs. To-be-dismissed civil servants working in a privatised company are not eligible because they have a guarantee of reemployment.

The contents of the social plan will be negotiated with regard to the information and proposals set out in a balance-of-interests agreement (Interessenausgleich).

The provisions under the social plan are enforceable by law.

If a social plan cannot be agreed upon, the employer or the works council may turn to the Federal Employment Agency (Bundesagentur für Arbeit) for mediation and a mediation committee will be set up. The committee comprises a representative from the employer and one from the works council side and is typically chaired by a judge of a local or regional labour court. This committee will draw up a social plan if the employer and works council fail to reach an agreement taking into account the social well-being of the affected employees as well as the financial situation of the employer. In case the committee's decision unilaterally follows the employer's propositions, a complaint can be filed with the labour court and the decision can be ruled unlawful.

The employees shall be offered financial compensation for weathering economic disadvantages, such as reductions in income or allowances. Compensation shall also be proportionate to their prospects of finding alternative employment.

A social plan is not mandatory during the first four years of a newly founded company (other than those formed by the reorganisation of existing firms or groups).

### Comments

A social plan usually includes termination payments for which there is no legal minimum or maximum. Often, these are calculated on the following basis: length of service multiplied with monthly gross salary multiplied with a certain factor (ranging from 0.5-1.5, depending on the economic strength of the firm and often also taking into account the age of the employee). Apart from financial compensation, the social plan can also arrange for support in finding new employment by providing training or job transfer measures.

[Online information on content and texts of agreed social plans](#) is provided by the Works Agreement Archive of the Hans Böckler Foundation.

#### Cost covered by

Employer

#### Involved actors other than national government

Public employment service  
Works council

### Thresholds






Company size by number of employees:

21

Number of affected employees:

6

### Sources

-  [Works Constitution Act](#)
-  [Betriebsverfassungsgesetz](#)
-  [Lapßnamn, N. and Riedel, H. \(2017\), Interessenausgleich und Sozialplan, 3rd ed., Hans Böckler Foundation, No. 360, Duesseldorf](#)
-  [Sozialplan, online information by private labour law platform Hensche](#)
-  [Ius Laboris \(2009\), Collective Redundancies Guide, Brussels](#)

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