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Germany: Severance pay/redundancy compensation

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Germany

Phase:

Management

Type:

Severance pay/redundancy compensation

Last modified: 10 October, 2017

Native name:

Kündigungsschutzgesetz; Betriebsverfassungsgesetz

English name:

Employment Protection Act; Works Constitution Act

Article

1a (Employment Protection Act); 112,113 (Works Constitution Act)

Description

Under the Employment Protection Act, an individual employee on permanent contract is entitled to severance pay if the employer indicates in the notice of dismissal that the dismissal is based on operational grounds and offers compensation or if the worker does not file a complaint against the dismissal within three weeks time.

In this case, severance payments of half a month's wage for each year of the employment relationship can be filed. The maximum payment stipulated by law equals to 12 months' salary. This rises to 15 months' salary for employees aged 50 or older, with at least 15 years of continuous service, and to 18 months' salary for employees aged at least 55 and with at least 20 years of continuous service.

There is legal entitlement to severance pay for an employee in the case of a collective dismissal if a works council is in place. Under the Works Council Constitution, in case of collective dismissals due to operational grounds, the employer and the works council negotiate a social plan that includes redundancy compensation.

In case the employer does not comply to the social plan, the worker may turn to the labour court for severance pay.

Comments

For availing of unemployment benefits, the mutual termination agreement (Aufhebungsvertrag) must contain a clause indicating that the worker would have been dismissed if he had not agreed to the severance pay.

Cost covered by

Employer

Involved actors other than national government

Works council

Other

Involvement others

Labour court

Thresholds

No, applicable in all circumstances

Sources

- 📖 [EMCC - Legal framework for restructuring](#)
- 📖 [Ullmann, K. and Bothfeld, S. \(2008\), The German Employment protection Act - How does it work in practice? WSI discussion paper 161, Duesseldorf](#)
- 📖 [Kündigungsschutzgesetz](#)
- 📖 [Betriebsverfassungsgesetz](#)
- 📖 [Works Constitution](#)
- 📖 [Gensicke, M., Pfarr, H., Tschersich, N., Ullmann, K. and Zeibig, N. \(2008\), Neue Erkenntnisse über die Beendigung von Arbeitsverhältnissen in der Praxis, in: Arbeit und Recht 12/2008](#)

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