



EMCC

European Monitoring Centre on Change

Austria: Severance pay/redundancy compensation

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Austria

Phase:

Management

Type:

Severance pay/redundancy compensation

Last modified: 10 December, 2021

Native name:

Betriebliches Mitarbeiter- und Selbständigenvorsorgegesetz (BMSVG)

English name:

Federal Act on Corporate Staff and Self-Employment Provision (BMSVG)

Article

6, 14, 15, 17

Description

Every private sector employee (with an employment contract extending to over one month) is entitled to severance pay upon termination of the employment relationship.

Provided that the employment relationship lasts longer than one month, from the first day of the employment relationship the employer is obliged to pay a contribution amounting to 1.53% of the monthly pay into an employee provision fund (*Mitarbeitervorsorgekasse*). No contributions must be paid for the first month, however (§ 6). The fund has to be selected in due time on the basis of a company agreement, that is between the employer and the works council. If there is no works council in the company, the employer has to select a fund and inform all staff members in writing within one week. If at least one third of the employees reject the chosen fund within two weeks, the employer has to suggest an alternative. Upon request of the workers concerned, an employees' organisation has to be consulted. If still no agreement can be established within two weeks after involving the employees' organisation, an arbitration board will decide upon the fund.

Upon termination of the employment contract, the worker is entitled to severance payment from the fund, unless (§ 14):

- the termination came into effect on demand of the worker;
- the termination came into effect by the employer because of wrongful behaviour of the worker;
- contributions have been paid into the fund for less than three years.

If the worker wants to draw on the payment, s/he has to inform the fund in writing within six months following the termination of the employment contract. The amount of severance payment is calculated based on the accumulated contributions by the end of the month when the entitlement becomes due.

The worker can also opt for leaving the money in the fund for later use. In the latter case, contribution periods of different employers will be aggregated. The same holds true for cases of resignation by the employee, as well as for employees in short-term employment (less than three years).

This provision applies to anybody who started an employment relationship in the private sector after 1 January 2003. The provision was further extended to freelancers (*Freie DienstnehmerInnen*) as of 1 January 2008.

Comments

Social plans may also contain special severance pay agreements.

In 2019 there were 8 employee provision funds to choose from (see a current [list of funds](#)). For the last 15 years, the fund assets have been in continuous growth. In 2018 the overall fund capital was nearly 10 times bigger than in 2008.

Cost covered by

Companies

Involved actors other than national government

Trade union
Works council
Other

Involvement others

Specialised funds (Mitarbeitervorsorgekassen), arbitration board

Thresholds

No, applicable in all circumstances

Sources

- Wilthagen, T. (2007), Flexicurity Practices, Brussels
- [Labour Market Reforms Database \(LABREF\)](#)
- [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
- [Betriebliches Mitarbeiter- und Selbstständigenvorsorgegesetz \(BMSVG\) / Federal Act on Corporate Staff and Self-Employment Provision](#)
- [Wirtschaftskammer Österreich \(Austrian Federal Economic Chamber\) - Liste der Betrieblichen Vorsorgekassen \(list of available funds\)](#)
- [Bundesministerium für Arbeit, Soziales und Konsumentenschutz \(Federal Ministry of Labour, Social Affairs and Consumer Protection\)](#)
- [Austrian Chamber of Labour: Broschure on severance payment \(PDF, in German\)](#)
- [Betriebliches Mitarbeiter- und Selbstständigenvorsorgegesetz § 6](#)
- [Betriebliches Mitarbeiter- und Selbstständigenvorsorgegesetz § 14](#)
- [Betriebliches Mitarbeiter- und Selbstständigenvorsorgegesetz § 15](#)
- [Betriebliches Mitarbeiter- und Selbstständigenvorsorgegesetz § 17](#)
- [Betriebliche Vorsorgekassen - Statistiken und Downloads](#)

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