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EMCC

European Monitoring Centre on Change

Germany: Obligation to consider alternatives to collective dismissals

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Germany

Phase:

Management

Type: [Obligation to consider alternatives to collective dismissals](#)

Last modified: 27 September, 2019

Native name: **Betriebsverfassungsgesetz**

English name: **Works Constitution Act**

Article

79, 80 (4), 111-113

Description

In establishments with a works council and at least 20 workers with voting rights, the employer has to comprehensively inform the works council of any planned alterations that may entail substantial disadvantages for the workers and consult the works council members on the planned alterations.

The consultations should address whether the planned alterations have to take place, when they shall be implemented and how negative impacts for affected workers can be avoided. These consultations typically discuss the number of dismissals/redundancies, options of avoiding job cuts via short-time working or company-based job transfer agencies and alternative forms of work organisation and production. Works councils in establishments with more than 300 workers may hire professional consultants for support.

If management and the works council can reconcile their interests in connection with the planned alterations, they lay down their interests in an agreed, binding interest agreement.

In case the planned dismissals cannot be avoided, the management and the works council go on negotiating a social compensation plan proving financial compensation for the affected workers. Any agreements have to be made in written form.

In case an agreement cannot be reached both parties may refer to the chair of the Federal Employment Agency for mediation. The mediator, however, is not allowed to take decision.

Comments

A lengthy description on the procedures ('Interessenausgleich') is provided by an [online information service](#) for works council members. The Works Constitution is available in English too.

Cost covered by

Not applicable

Involved actors other than national government

Public employment service
Works council
Other

Involvement others

Consultants

Thresholds

Company size by number of employees:

21

Number of affected employees:

6

Sources

- ▣ Däubler, W., Kittner, M., Klebe, T. and Wedde, P. (eds) (2012), BetrVG, Betriebsverfassungsgesetz, Kommentar für die Praxis, 13. ed., Frankfurt Bund Verlag
- ▣ DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring
- ▣ EMCC - Legal framework for restructuring
- ▣ Works Constitution Act
- ▣ Betriebsverfassungsgesetz
- ▣ Interessenausgleich
- ▣ Page, R. (2011), Co-determination in Germany - A beginner's guide, Düsseldorf

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