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European Monitoring Centre on Change

Austria: Employers obligation to support redundant employees

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Austria

Phase:

Management

Type:

Employers obligation to support redundant employees

Last modified: 10 December, 2021

Native name:

Arbeitsverfassungsgesetz (ArbVG)

English name:

Labour Constitution Act (ArbVG)

Article

97, 109

Description

If planned changes in business operations (that is, reducing or shutting down company activities, relocation, merger, change of the purpose of the organisation, of existing infrastructure or of the work organisation, introduction of new work methods, rationalisation or automatisisation measures of considerable importance, change of the legal form or ownership structures, planned collective dismissals) 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 continuously employing at least 20 staff members, a social plan can be agreed to avoid, reduce or remove the negative consequences for the employees (*The social plan (or other measures) is not mandatory. The social plan is part of a works agreement (Betriebsvereinbarung, ArbVG §97) between the employer and the works council*). If these changes result in dismissals, the social plan should particularly consider the interests of older workers.

Content of the social plan may include:

- voluntary severance payments;
- financial interim aid;
- reimbursement of costs for education, training or job interviews;
- continued use of company flats;
- preferred reemployment; and,
- establishment of an outplacement foundation.

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 interests of the company as well as of the employees. The decision of the board is binding and has to be implemented.

Comments

Regarding the understanding of a 'considerable number of employees' in relation to the necessity to establish a social plan, the court decided that 8% of the staff is not a sufficiently high share of employees affected.

Cost covered by

Employer

Involved actors other than national government

Works council

Other

Involvement others

Public mediation and arbitration board

Thresholds






Company size by number of employees:

20

Number of affected employees:

5

Sources

-  [Arbeitsverfassungsgesetz \(ArbVG\) § 109](#)
-  [Arbeitsverfassungsgesetz \(ArbVG\) § 97](#)
-  [Decision of the Higher Administrative Court regarding the 'considerable number of employees'](#)
-  [Wirtschaftskammer Österreich \(Austrian Federal Economic Chamber\), 'Sozialplan'](#)
-  [Austria Trade Union Federation \(ÖGB\), 'Sozialplan'](#)

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