European Foundation for the Improvement of Living and Working Conditions

Managing restructuring without redundancies in the Austrian banking sector: BAWAG PSK

EMCC case studies

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Introduction

BAWAG PSK is an Austrian banking group historically closely aligned with the trade union movement. The bank has faced numerous financial and political challenges in recent years, linked in a number of cases to unsound financial investments leading to significant exposure to failed or struggling US financial institutions. Having previously been owned by the Austrian trade unions and therefore carrying strong political and symbolic significance, this has arguably affected its approach towards restructuring. The bank has drawn in the past – and is currently, like other Austrian banks, drawing – on financial support from the government to ensure its financial robustness. Because of its historical alignment, job losses at BAWAG PSK are politically more problematic than redundancies at other financial institutions or private companies might be. In addition, aspects of the Austrian institutional background – relating in particular to collective bargaining, the role of the works councils and the position of employees with civil servant status – have meant that workforce restructuring has taken place in a way that has avoided compulsory redundancies, but instead focused on retraining and early retirement measures.

Company profile 1

BAWAG PSK was founded in 1922 by the Federal Chancellor Karl Renner, with the objective of pooling and prudently managing the 'financial means of the unions and cooperative societies'.[1] Named in the 1960s as the Bank for Employment and Commerce (*Bank für Arbeit und Wirtschaft*), BAWAG was considered to be the bank of the 'little man' as the savings deposits of Austrian workers used to comprise the majority of investments. By 1982, the business expanded, encompassing a total of 120 offices. In January 2005, BAWAG and the Austrian Postal Savings Bank (*Österreichische Postsparkasse Aktiengesellschaft*, PSK) formally merged, following a cooperation agreement in 1997 and an organisational integration in 2000. PSK was a state-owned postal savings bank where most employees had the status of civil servants.

The newly formed company represented a large banking group in Austria with 'a balance sheet total of nearly €45 billion, 5,000 employees, some 2,000 outlets and over one million private customers', according to its website. In 2006, BAWAG PSK was operating the largest centrally managed distribution network in the country. It ranked as Austria's fifth largest bank based on total assets, according to its 2007 financial statements (Austrian Central Bank, 2008). In May 2007, the company was sold to a consortium of investors led by Cerberus Capital Management, one of the largest private equity investment groups in the US.

As of April 2009, the Group consists of 48 entities in Austria and abroad, according to the notes to its 2008 annual financial statements (BAWAG PSK, 2009b). At the end of 2008, the bank's consolidated assets totalled €41.58 billion.

[1] BAWAG PSK website, http://www.bawagpsk.com

Timeline of company's financial difficulties 2

Until late 2006, BAWAG PSK was owned by the Austrian Trade Union Federation (*Österreichischer Gewerkschaftsbund*, ÖGB), which has about 1.3 million members, according to the ÖGB website.

BAWAG PSK's financial difficulties go back to the period between 1995 and 2000, when the bank suffered significant financial losses of about €1 billion due to speculative investments in highly volatile currency derivatives, losses which were unravelled only later in 2006. The company also granted a substantial loan to the US futures trading company Refco shortly before the broker itself filed for bankruptcy. Due to BAWAG PSK's connection with Refco's fraudulent practices (see, for example, US District Court Southern District of New York, 2006), subsequent legal action taken by the creditors of the insolvent Refco in the US triggered further difficulties for BAWAG PSK.[2]

Sale to US consortium

These events led to a loss of confidence among customers followed by considerable withdrawals of deposits and constraints in the international money and capital markets in the spring of 2006 (BAWAG PSK, 2007a). In this context, ÖGB was faced with a €1.4 billion debt incurred by the bank (EIRO, 2006a). In 2006,[3] the managing bodies of ÖGB decided to sell all of the shares in BAWAG PSK to a consortium led by the US investment company Cerberus Capital Management, which also included several Austrian partners (see company history on BAWAG PSK website for more details). To avoid a severe liquidity crisis before the Group's planned sale, the Austrian Parliament adopted the BAWAG PSK guarantee act (*BAWAG PSK Sicherungsgesetz*), providing for a €900 million federal guarantee to resume normal operations at BAWAG PSK. Austria's banks and insurers contributed in the form of capital support totalling €450 million in June 2006 (BAWAG PSK, 2007a).

More specifically, under the approval of the Austrian Financial Market Authority and the Federal Ministry of Finance, four Austrian credit institutions and four Austrian insurance corporations founded two new corporations in which they pooled capital. The four credit institutions were Bank Austria Creditanstalt (BA-CA), Erste Bank, Österreichische Volksbanken-AG (ÖVAG) and Rudolf Zimmermann, Bamberg (RZB), while the four insurance corporations were Allianz, Generali, Uniqa and Wiener Städtische. BAWAG PSK held a controlling stake of 20% in both of the new corporations. The arrangement was beneficial for both sides: BAWAG PSK increased its capital while the other participating corporations had their funds invested exclusively in top-rated euro government bonds – in other words, low-risk, secure investments. The two new companies were closed in 2007 and all liquidation revenues were divided proportionally among their owners (BAWAG PSK, 2007b).

In November 2006, the European Commission opened an investigation to assess whether the state guarantee was compatible with EU competition rules (European Commission, 2007). The Commission finally authorised the guarantee under the EC Treaty state aid rules, on condition that a restructuring plan as well as compensatory measures would be implemented by the new owners. As noted, the company was eventually sold in May 2007 to the investor consortium led by Cerberus Capital Management.[4] The new owner consortium injected fresh

[2] In June 2006, a settlement was reached with all parties which required BAWAG to effect an unconditional payment of USD 675 million. In 2007, upon the sale of BAWAG PSK shares to the new owner, an additional payment was also made, according to the company's 2008 annual financial statements.

[3] The actual deal was completed in May 2007.

capital of €600 million, replacing the guarantee of the Republic of Austria (BAWAG PSK, 2008). Because of the successful sale, no public funds had to be spent.

Following the completion of the acquisition by the new owners, the bank's performance bounced back: the Group's savings deposits increased by €120 million in 2007. Furthermore, on 18 December 2006, Moody's Investors Service[5] upgraded BAWAG PSK's financial strength rating from 'stable' to 'positive', invoking the positive impact of the new ownership on the bank's efficiency and profitability.

Restructuring programme

In 2007, the BAWAG PSK Supervisory Board agreed to launch a multi-annual transformation programme to improve the bank's operational performance and profits. The programme aimed to modernise the core retail and commercial banking business. Most importantly, the restructuring strategy was designed and implemented with a view to delivering profits of €500 million in five years. The company's 2007 annual report mentions three components of the restructuring strategy:

- increasing profitability and returns within the core business;
- launching a range of new businesses outside Austria;
- seeking to take advantage of good acquisition opportunities by using the bank's liquidity and capital in order to accelerate growth.

In 2007, following the completion of the acquisition by the new owners, the government guarantee that was used to bail out the bank expired. This was followed by the outbreak of the global financial crisis, which peaked in September 2008 with the bankruptcy of the financial services company Lehman Brothers. In general, experts agree that the exposure of the Austrian banks to the turmoil in the subprime mortgage market has been comparatively limited; however, they have been indirectly affected by the crisis through its negative impact on the European economy, particularly the gloomy economic outlook of central and eastern Europe (OeNB, 2008). On the other hand, the owner of BAWAG PSK, Cerberus Capital Management, has been directly hit by the economic downturn, particularly when the biggest companies in its portfolio – Chrysler and GMAC (the financing arm of General Motors) – collapsed.[6] In January 2009, Cerberus announced cost-cutting measures (Arnold, 2009).

Since the expiry of the government guarantee and in the context of the global economic crisis, the value of BAWAG PSK's financial assets – in particular its structured credit portfolio – has sharply decreased.[7] Furthermore, the negative impact of the hostile financial climate was exacerbated by the costs of the restructuring programme on the company's balance sheet (BAWAG PSK, 2009a). The internal reorganisation entailed mainly staff restructuring costs as well as increased marketing expenses to consolidate the BAWAG PSK brand and enhance the Austrian

[4] The bank now complies with the economic and trade sanctions administered by the US Treasury Department's Office of Foreign Assets Control.

[5] Moody's Investors Service is among the world's most widely used sources for credit ratings, research and risk analysis.

[6] Cerberus was reported to have an 80% stake in the ailing car manufacturer Chrysler.

[7] The valuation of the bank's structured credit portfolio was hardest hit by the financial crisis, in particular by the bankruptcy of Lehman Brothers. Losses related to other classes of assets such as securities and derivatives were also reported.

customer base. In the financial year 2008, administrative expenses totalled €617 million, representing an increase of 12.4% compared with 2007. The costs of the staff restructuring borne by the company totalled €21 million (BAWAG PSK, 2009b).

As a result of these two detrimental factors, BAWAG PSK recorded a consolidated loss after tax of €452 million, marking a full year loss of €548 million for 2008, according to the company's then Chief Executive Officer (CEO), David Roberts. This happened despite the fact that, overall, the bank recorded gains in market share, underlying pre-tax profit, liquidity and capital resources – albeit on a comparative basis with previous years. Table 1 highlights the impact of the global economic crisis on the company, while Table 2 provides an overview of its financial performance from 2005 to 2008.

Table 1: Impact of economic crisis on company performance (in millions of euro)

	2007	2008	Change
Gains and losses on financial assets and liabilities	-0.5	-595.8	>-100%
Gains and losses on financial assets and liabilities excluding losses related to the impact of the financial crisis and non-recurring restructuring costs*	46	-	-100%
Consolidated loss	-452.5	-547.5	-21%
Consolidated profit excluding losses related to the global financial crisis as well as non-recurring restructuring costs	59	90	+35.6%

Note: * *In order to compare the results in 2007 and 2008 on a consistent basis, the company's 2008 annual report includes a pro forma income statement, that is, the financial results if the state of the market had been different. The table excludes the impact of value adjustments and impairments related to the valuation of various asset classes impacted by the global economic crisis; it also excludes one-off gains and losses from the disposal of non-core subsidiaries and non-recurring restructuring costs and investments.*

Source: *BAWAG PSK, 2009a*

Table 2: Overview of financial performance, 2005–2008 (in millions of euro)

	2005	2006	2007	2008
Consolidated loss/profit	6.2	40.4	-452.5*	-547.5
Operating profit	217	140 adjusted**	(145) adjusted**	(190)

Notes: * *The 2007 results were severely affected by the expiration of the €900 million guarantee provided by the Austrian federal government. Because of this expiry, the new balance sheet had to include a one-off charge of €600 million related to previous bad loans. For more details, see BAWAG PSK, 2008.* ** *The operating profit figures for 2007 and 2008 exclude the impact of the global economic crisis; they also exclude one-off gains and losses from the disposal of non-core subsidiaries and non-recurring restructuring costs and investments.*

Source: *BAWAG PSK, 2009a*

It is understood that the negative trend of the valuation of the bank's structured credit portfolio will continue in 2009. However, due to the planned injection of additional capital of €205 million from its shareholders, the management is confident that the bank will be able to endure the economic turmoil, according to a company press release of 29 April 2009. Furthermore, BAWAG PSK will receive a guarantee of €400 million from the Republic of Austria for the next five years. Similar to other countries, on 20 October 2008, the Austrian parliament adopted a package of measures aiming to support the Austrian financial institutions in mitigating the negative impact of the global economic crisis. The provisions were laid down in the Federal Act on strengthening the interbank market (*Interbankmarktstärkungsgesetz*, IBSG) and the Federal Act on measures to stabilise the financial market (*Finanzmarktstabilitätsgesetz*, FinStaG), as well as other amendments to financial market-related legislation (OeNB, 2008). In total, the measures offer financial support of €100 billion, €75 billion of which is provided in the form of guarantees to encourage interbank lending while €15 billion is available for various recapitalisation measures of individual banks.

In order to improve its liquidity and minimise its exposure to deteriorating markets in central and eastern Europe, BAWAG PSK sold its subsidiaries in the Czech Republic and Slovakia in 2008.

Regulatory context for job reductions 3

In Austrian companies, all employment-related affairs are regulated by a three-tier system:

- a macro-level tier encompassing the legal provisions, such as the Labour Constitution Act;
- a meso-level tier represented by collective agreements, signed at sectoral level between various chambers and trade unions, regulating aspects such as minimum wages, working time and pay increases;
- a micro-level tier represented by works agreements or 'social plans' signed between the works council – where elected – and management.

To these three main tiers, a further tier may be added of 'individual plans' laid down in the contractual agreements between individual employees and companies' management.

The three main regulatory levels operate in a complementary manner (see Eurofound's summary of Austrian industrial relations[8]). The works councils are authorised to bargain on important employment terms such as pay only when mandated to do so by multi-employer agreements. However, if such an agreement has been signed and its stipulated terms are more favourable to the employees than the terms laid down in the collective agreements or the law in place, then the works agreement takes precedence.

In the case of BAWAG PSK's job reduction programme, which will be detailed in the following sections, no employee has as yet been dismissed. Thus, many of the job reduction measures pertain to the realm of collective agreements and individual employment contracts rather than the legislation on the termination of employment. This study will succinctly highlight some of the strands in Austrian law that bear relevance to this case. It will then focus on describing the collective agreements and company-level agreements that apply to this particular case. Collective agreements and individual employment contracts in Austria usually provide for more favourable protection of employees against dismissal as well as better terms in the event of employment termination – for example, better severance pay or a longer notice period. In such cases, the more favourable provisions of the collective agreement will apply rather than the legal provisions.

Relevant aspects of labour law

High level of protection of public sector employees

In Austrian law, general protection against dismissal is mainly laid down in the Works Constitution Act (WCA) (International Labour Organization (ILO), 2006). Unlike private sector employees, persons employed in the public sector – such as the former PSK employees – are not covered by the WCA but by special statutes, which provide them with more favourable protection against dismissal.

At BAWAG PSK, there are 600 civil servants who originated from PSK and who currently work for the bank. At the time of the merger between the privately owned BAWAG and state-owned PSK, most PSK employees were public sector employees, about half of whom were employed under a public-law relationship with the central government – that is, federal career public servants (*Bundesbeamte*) – while the rest were contract public employees (*Vertragsbedienstete*). Under Austrian labour law, the public sector is not covered by formal collective bargaining, with the Parliament instead determining the terms of employment (EIRO, 2006b). As federal career public servants, PSK employees used to enjoy permanent tenure of appointment (*Pragmatisierung*), which means absolute protection against dismissal. Upon the merger with BAWAG, a special act was passed according to which former

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[8] http://www.eurofound.europa.eu/emire/AUSTRIA/ANCHOR-ARBEITSBEZIEHUNGEN-AT.htm.

PSK employees could retain their status as civil servants of the federal state albeit under a private-law relationship. They can only be made redundant if they break any corporate rules.

Role of works council in cases of employment termination

According to Austrian law, companies with at least five employees are required to elect a works council (*Betriebstrat*) representing the interests of all employees, both trade unionists and non union members. The council is elected by employees every fourth year and has the legal right to participate in the company's decision making. The management has to inform and consult the members of the works council on a regular basis about any issues relevant to the company's workforce.

Under the WCA, the works council must be consulted on and informed in due course of any individual dismissals or change of the establishment planned by the employer. Works councils also have the right to comment on unilateral termination of employment and dismissal, and to appeal against them in court.

Furthermore, the works council is entitled to make proposals to prevent, mitigate or assuage any consequences of changes that might be detrimental to the employee. If the two sides cannot agree on the terms of the works agreement and no collective agreements cover such arrangements, then the issue can be taken to an arbitration board.

Severance pay

In Austria, the severance pay depends on how long an employee has worked for a company. Table 3 presents the statutory minimum levels of severance pay.

Table 3: Statutory levels of severance pay

Employment tenure	Severance pay (first tier)
3 years	2 months of salary
5 years	3 months of salary
10 years	4 months of salary
15 years	6 months of salary
20 years	9 months of salary
25 years	12 months of salary

Upon termination of the employment contract, an employee is entitled to severance pay only if they have at least three years of service in the organisation and have not resigned of their own free will.

In 2002, Austria reformed its severance pay legislation (*Abfertigung Neu*); some new provisions are now applicable to all employment contracts signed after 31 December 2002. Under the new scheme, the employer contributes 1.53% of the monthly wage to an employee income provision fund. This 1.53% contribution only pertains to employees who started their job in the bank in 2003 or more recently. The rest of the workers – who constitute the majority at BAWAG PSK – are subject to the old system of severance pay.

Employment protection of older workers

In Austria, the WCA contains provisions discouraging employers from laying off older employees. Section 105(3)(2) of the Act also stipulates that employees who have worked for a company for at least six months are protected against 'socially unjustified dismissal' (ILO, 2006). Such dismissals are defined as dismissal decisions that prejudice the interests of an employee (EIRO, 2000). In legal terms, the dismissal of older employees is more likely to be judged as socially unjustified because redundant older employees are usually faced with the prospect of prolonged unemployment, particularly in Austria where in 2008 the employment rate of older people was still low (41.1%).[9] Amendments to the Employment Contract Law Adjustment Act (*Arbeitsvertragsrechts-Anpassungsgesetz*, AVRAG) passed in July 2000 explicitly allow older workers of a certain age and who are employed in a company with more than five workers to contest a dismissal decision in the courts if the dismissal is deemed to be socially unjustified (EIRO, 2000). Older employees who decide to contest the dismissal decision in court must have been employed in the company for at least six months and must contest it within one week of the announcement of the dismissal. It is worth noting that an employer can defend a claim of socially unjustified dismissal on financial grounds (Freshfields Bruckhaus Deringer, 2009).

The 2000 pension reform also introduced a disincentive (*malus*) scheme for employers, stipulating that an employer laying off an employee over the age of 50 years, who has been working for the company for 10 years, has to make payments to the unemployment insurance system (ibid). The lowest payment is 0.2% of the employee's gross income for those aged 50 years and the payment increases with the employee's age, up to a maximum contribution to the unemployment insurance fund of 3% of gross income. Employers are also encouraged to report the dismissal of older workers to the Labour Market Service (*Arbeitsmarktservice*, AMS);[10] otherwise, the disincentive payment increases by 30%.

Collective agreements

Collective agreements in Austria are almost exclusively concluded at sectoral level, between various economic chambers and ÖGB or its member unions (EIRO, 2009). ÖGB currently organises nine trade unions, three of which largely represent the public sector, while five unions represent private sector manual workers and one covering private sector white-collar workers. In 2007, ÖGB approved that each affiliated union is entitled to establish itself as a society with partial legal capacity. However, none of them has made use of this opportunity so far. Nevertheless, the member unions have always negotiated collective agreements at sectoral and branch level and have signed these on behalf of the trade union federation (EIRO, 2006b).

On the employer side, various employer organisations or chambers are organised under the Austrian Federal Economic Chamber (*Wirtschaftskammer Österreich*, WKÖ), which represents nearly all private companies in Austria. Each subsector has its own employer organisation and the membership of employers in associations is statutory; hence, the aggregate bargaining coverage of collective agreements is very high, up to 98% (EIRO, 2006b).

Only a minority of collective agreements are concluded at regional (*Länder*) level.

9 In 2008, the average rate of employment of older workers in the 15 EU Member States before EU enlargement in 2004 and 2007 was 47.4%, according to the Statistical Office of the European Communities, Eurostat.

10 AMS is Austria's public employment service, whose main purpose is to assist unemployed people in finding job placements and claiming benefits. As part of its re-employment objective, AMS ensures that people aged over 40 years have extended access to training or re-skilling.

Collective agreements in banking sector

Collective agreements in the banking sector are concluded at subsectoral level covering five specific subsectors: commercial banks, savings banks, mortgage banks, Raiffeisen cooperative banks and Volksbanken cooperative banks (Traxler et al, 2008). Employees working in the banking sector are represented by the white-collar trade union affiliated to ÖGB, namely the Money and Credit Section of the Union of Salaried Employees (*Gewerkschaft der Privatangestellten*, GPA) (EIRO, 1999). Banks are members of the representative Austrian Bankers' Association (*Verband Österreichischer Banken und Bankiers*, VoeBB). At the time of writing, the bargaining parties involved in the collective bargaining were concluding a new industry-wide agreement due to come into force on 1 June 2009.

In banking, the collective agreements cover 100% of the workforce while 80% of the sector's workforce is also represented by a works council. Compared with other sectors in Austria, the collective agreements concluded in banking cover a broader range of issues including pay, employment tenure, working time, flexitime, occupational pensions (which tend to be rare in Austria) and administrative pensions.[11] The agreements also tend to provide for more favourable conditions for employees (EIRO, 2001).

BAWAG PSK has always been subject to the provisions set out in the collective agreements concluded in the banking sector. Some particular measures apply to employees working in commercial banks. Firstly, the payment system is largely constructed on the principle of seniority and banks generally tend to exceed the collectively agreed pay rates by an average of about 30% (EIRO, 2004). Secondly, bank staff also benefit from administrative pensions, which constitute a special pension that employees of a certain age and employment tenure are entitled to when made redundant prior to their formal retirement age. However, it is worth underlining that this pension sum depends on the length of employment as well as the employee's age, and does not equal the amount of a regular old age pension entitlement.

The pension scheme established by the collective agreement for commercial banks stipulates that the employer would be obliged to pay older employees their pension benefits in the event of dismissal, even though the employee had not reached the statutory retirement age. In BAWAG PSK, all employees who started working for BAWAG before 1997 are covered by this particular collective agreement. Under this enforceable requirement, dismissal of BAWAG's older employees becomes an expensive job reduction measure. In addition to these measures, employees aged over 50 years also benefit from a high level of protection against dismissal laid down in the AVRAG Act. As noted above, the Act made it more difficult for employers to dismiss older employees, who can now contest the dismissal on social grounds.

Works agreement at company level

In line with the works council's co-determination rights, employer and employee representatives must negotiate a works agreement (*Betriebsvereinbarung*) regarding certain aspects of employment relations delineated by law. Works agreements can only cover matters 'whose regulation is reserved by law or collective agreement to such agreements'.[12] They are valid only if the terms stipulated are more favourable to the employees than the terms of the collective agreements in place. In principle, the works council retains the right to contest any managerial decision of dismissal if that decision would cause social hardship for the laid-off employee. If the employer breaches any of the provisions of the agreed works agreement, the works council has the right to contest the

[11] VoeBB and GPA have signed various collective agreements for the employees working in the banking sector. These agreements concern minimum wages, severance pay, flexible working time, retraining and other matters.

[12] http://www.eurofound.europa.eu/emire/AUSTRIA/ANCHOR-BETRIEBSVEREINBARUNG-AT.htm.

employer's decision in the Labour and Social Court. Employers usually respect such agreements as otherwise they can suffer penalties. In practice, however, the works council has limited power to prevent dismissals.

The works agreement at BAWAG PSK covers three main areas of interest: retraining, severance pay, and an early or partial retirement scheme for older employees.

Retraining

In cases of necessary job reductions, the first measure taken by BAWAG PSK is retraining. As part of the restructuring plan, the works agreement at BAWAG PSK laid the foundation for a retraining centre that was established in the company in 2007 for people whose jobs were no longer available. The company-level agreement stipulates that the centre would initially be in place for two years.

At this centre, employees have the opportunity to train for alternative jobs available within the company. The workers are nominated for retraining by heads of their departments. When a line manager decides to nominate an employee for retraining, this manager must notify the works council before the individual employee is informed of the decision. The employee has the right to be accompanied by a member of the works council to the formal meeting scheduled with the direct manager. The works council has the right to check – and contest – whether the previous position of the employee is at a similar level as the newly offered job. Crucially, according to the works council agreement, the employee's salary in the new job must not be lower than their previous salary. Employees retain all of their employment rights including their pay level while undergoing retraining.

The works agreement stipulates that the number of employees nominated for retraining can be between one and 80 persons. No more than 80 employees can be nominated at the same time. The retraining programme is customised to the individual employee and is preceded by a rigorous assessment of the employee's skills. The results of the assessment feed into a training programme that takes into account the employee's skills as well as the available jobs.

The retraining remains voluntary, meaning that the employee can choose to stay in the company – in which case the retraining is mandatory – or leave the company with severance pay or accept early retirement. The courses cover a wide range of topics and can entail formal classes or seminars as well as on-the-job training given by colleagues who are already doing the relevant job. Formal courses last about four weeks but the duration varies from one employee to another and from one job to the next. The courses cover information technology (IT) skills, sales, customer care, internal banking processes and products, and other topics. A 'learning-by-doing' component included in the package involves peer training on the job, which usually takes a longer period of time – between three and six months. The choice of courses depends on the preliminary assessment as well as the existing available jobs. Assessment and training costs are borne by the company.

Severance pay

Employees who are nominated for retraining but do not wish to take up the training offer and prefer to leave the company when their job is no longer available are entitled to severance pay funded by the company. As previously mentioned, in the new severance pay system, the company makes a monthly untaxed payment of 1.53% of gross wages into a central fund. Furthermore, according to the previous legislation on severance pay, dating from before 2002, the pay is calculated taking into account the number of years of service. The individual is also entitled to the standard notification period.

Table 4 outlines the basic levels of severance pay in Austria and in the country's banking sector. The collective agreement and the works agreement or social plan top up the statutory severance pay; the level of the third-tier top-up depends on the company and its agreement with the works council.

Table 4: Levels of severance pay: statutory (first tier) and collective agreement in banking sector (second tier)

Employment tenure	Severance pay (first tier)	Severance pay (second tier)
3 years	2 months of salary	2 months of salary
5 years	3 months of salary	5 months of salary
10 years	4 months of salary	6 months of salary
15 years	6 months of salary	8 months of salary
20 years	9 months of salary	11 months of salary
25 years	12 months of salary	14 months of salary

As Table 4 shows – and as noted earlier – only employees who have worked for at least three years in the company are eligible for severance pay. The collective agreement in the banking sector provides employees with at least five years of service an additional two months for each basic level of severance pay. The works agreement at BAWAG PSK provides for even more generous severance pay – about twice that of the collective agreement. Severance pay is paid at the end of the employment contract.

The payment levels may seem generous but the employee representatives at BAWAG PSK contend that such measures are common among Austrian banks as well as other large companies operating in different economic sectors, such as the electronics and electrical engineering company Siemens and the telecommunications service provider Telekom Austria. The level of severance payments is usually established by using other companies operating in the same sector as a benchmark. However, other stakeholders consider that BAWAG PSK's job reduction programme has not yet included direct dismissals because it would be unpopular among its employees who are members of ÖGB – BAWAG PSK's former owner and the single trade union federation in Austria. Furthermore, ÖGB argued on 17 June 2009 that the company should not lay off any staff if it is to benefit from the government's package of financial measures in 2009. In 2008, the then Federal Minister of Finance, Wilhelm Molterer, in agreement with the Federal Chancellor at the time, Alfred Gusenbauer, issued a regulation setting the general conditions for providing any funds under the Interbank Market Support Act (IBSG) and the Financial Stability Act (FinStaG). As part of the terms, the beneficiary institution must 'take reasonable care to safeguard the jobs provided in its enterprise', as published in the *Federal Law Gazette* on 26 October 2008.

According to the collective agreement, for employees aged over 40 years who are not interested in embarking on in-house retraining, BAWAG PSK must ensure access to training provided by the labour foundations in Austria. Labour foundations are an institutionalised social partnership arrangement available in different economic sectors and localities. In such situations, the employment contract with the company ends and former employees are entitled to a payment roughly equivalent to unemployment benefit. However, the person is not considered unemployed because they are still active in the labour market. The model is organised at regional level in cooperation with the AMS and is subsidised by the provincial governments (*Landesregierungen*). The employer contributes to this scheme with a one-off fee of €5,000. Retraining provided by the labour foundations can last up to three years for employees aged over 40 years or four years for employees older than 50 years. For other workers, it usually lasts one year. The scheme is voluntary, although the duration of unemployment benefit receipts depends on the person's willingness to retrain. Payments made to trainees during this period are usually slightly more generous than the standard unemployment benefit available to unemployed individuals not participating in labour foundation schemes.

Early or partial retirement scheme for older employees

According to the BAWAG PSK works agreement, this is the third option available in the job reduction programme. Employees who are within seven years of the official retirement age may opt for pre-retirement, in which case they are granted leave by the company and continue to receive at least 60% of their last take-home pay until they reach the earliest possible legal retirement age – usually about 55 years for women and 62.5 years for men. This practice is rather common in the banking sector and BAWAG PSK's early retirement scheme may actually be deemed austere in comparison with other banks, which can provide employees with 65% of their previous salary for a period of up to 10 years prior to their retirement age. Although common in the financial intermediation sector and in Austria in general, this option may be the least financially beneficial to the employee in the long run, since employees' pension entitlements are usually reduced by a certain number of percentage points for each year of early retirement that they have taken. The amount of pension received takes into account the age of the workers on the date of retirement.

Job reduction measures at BAWAG PSK 4

According to the Austrian Press Agency and company representatives, BAWAG PSK had aimed to reduce its workforce across its offices in Austria by 400 full-time equivalent (FTE) employees by the end of 2008 as part of a more extensive restructuring programme. Since the summer of 2008, company management in agreement with the works council has planned to implement a 'socially acceptable' workforce reduction programme.

There are several reasons behind the job reduction measures. While the media associated these job losses with the economic crisis and the difficulties facing the new owner, Cerberus, interviewees at the company date the plans back to 2000 and the organisational integration of BAWAG and PSK. It is argued that the corporate mergers that have characterised the reform of the Austrian banking sector over the last 10 to 15 years usually trigger a restructuring of jobs. However, job cuts were delayed in this case because the two corporate divisions – BAWAG and PSK – only formally merged in 2005. The merger triggered the centralisation of technology services for both banks and the consolidation of their financial information.

The crucial year was 2007 when – as outlined earlier – under new ownership, the bank launched a restructuring programme to improve its performance, manage its losses and cut costs (in 2007 the bank's cost-income ratio was above 87%). With the aim of improving corporate effectiveness, the programme included a revision of the bank's risk management and the restructuring of its back office activities. The centralisation of back office jobs affected staff working in various provincial offices across the country. Under existing economic circumstances, the need to cut operational costs has become even more stringent for BAWAG PSK and the current crisis is likely to put more pressure on its budget, hence speeding up the job reduction process. Since BAWAG PSK will benefit from the governmental package of financial measures over the next five years, the bank will also have to implement stricter budgeting and containment of personnel costs.

The jobs affected by the restructuring plan were concentrated in the operations group, payments services and the back office of retail branches as the bank started to centralise jobs across the various branches. Job reductions have also affected manual workers involved in facilities management. The individuals affected are mostly full-time, low-skilled employees, as well as older employees and those who took recurrent periods of sick leave – for example, as a result of burnout. In fact, the works council is currently discussing with management the possibility of implementing a health programme to better manage and prevent such cases of work-related stress. According to staff representatives, employees who are perceived to be unproductive are more likely to be nominated for retraining by their heads of department.

As of May 2009, according to the management representatives, the company has reduced the total number of jobs by 220 persons. In reality, the number of job losses in certain parts of the business has been more substantial but this has been compensated for by necessary recruitment in other areas. For example, the former back-office staff could only partially meet the new labour demand in the risk and service units of the bank: thus, more personnel were required in these departments. The total number of employees is also influenced by the fact that many of the workers affected by the job reduction measures – that is, those on early retirement – are officially still on the payroll.

Throughout 2009, BAWAG PSK aims to reach its target of 400 FTE job cuts, by reducing the number of positions by 180 more FTEs. In the case of these job losses, it is expected that natural attrition will play a role as the current attrition rate stands at 5.5% of the total workforce. Table 5 summarises the bank's progress in restructuring its workforce in recent years.

Table 5: Employment figures, 2005–2008

	Total number of employees on payroll, including those on early retirement and maternity leave	Total number of active employees
2005	4,658	4,285
2006	4,654	4,229
2007	4,513	3,994
2008*	4,370	4,000

Note: *The 2008 figures include the recent recruits.*
Source: *BAWAG PSK*

The bank has not received any special financial assistance for its job reduction programme. In 2008, staff restructuring costs related to the social plan amounted to €21 million. However, the company also took some cost containment measures affecting workers, including discouraging overtime work and ceasing overtime payments. It is believed that, despite the costs incurred, staff restructuring will lead to better budgeting and cost containment in the long run. Table 6 provides an overview of the costs of staff-related restructuring provisions at BAWAG PSK.

Table 6: Costs of staff-related restructuring provisions, 2006–2008 (in millions of euro)

	2006	2007	2008
Severance payments	100	96	92
Pension provision	255	236	240
Jubilee benefits	62	31	22

Source: *BAWAG PSK*

Table 7 provides specific information about the restructuring costs under the social plan implemented in 2008. Costs are divided between the three job reduction methods. The figures are only provided for 2008 because, as the company representatives explain, no comparable figures can be produced for 2007 since no social plan was in place at that time. It is worth noting that, due to the statutory provisions for severance payments, BAWAG PSK had set aside reserves of €140,000 for such payments in advance. The remaining €560,000 was taken from the total restructuring budget to cover all severance payments incurred in 2008.

Table 7: Specific restructuring costs under social plan, 2008 (in millions of euro)

Job reduction method	
Staff retraining (from October 2008)	0.16
Severance payments for employees who did not wish to retrain	0.7*
Early retirement measures	13.16
Total costs	14.02

Note: ** €140,000 of this sum was secured in advance.*
Source: *BAWAG PSK*

During the job reduction programme, members of the works council were informed regularly about the proposed restructuring measures. In such situations, the council has predominantly a consultative role on any accompanying social measures while the final decision with regard to the number of job losses rests with the company management.

The job reduction programme entails the measures outlined earlier, as stipulated in the sectoral collective and works agreements. Members of the works council emphasised that no direct dismissals have as yet been undertaken, although there is some uncertainty about possible involuntary redundancies in 2009.

With regard to the first measure – retraining – a dedicated centre was established in the head office and replicated in the larger regional branches. Regardless of whether they are retrained or redeployed in other departments, employees are not obliged to work or retrain in different locations, as the employment contracts at BAWAG PSK clearly state the exact location of the workplace. A change of geographical workplace is a decision at the discretion of the employee. The retraining strategy has enjoyed significant support not only from the works council but also from senior management. This measure has proved to be a success as 50 people are already back at work occupying new positions in BAWAG PSK. At the time of writing, about 50 employees were participating in the training scheme. Only five employees elected not to remain and retrain at BAWAG PSK, but instead received retraining from the labour foundation.

Regarding the second option – severance pay – 13 employees have benefited from severance payments, amounting to €700,000 in 2008.

In relation to the third option – early and partial retirement schemes for older employees – company representatives reported that 120 BAWAG PSK employees were availing of this scheme.

Overall, it is unlikely that the company will dismiss a high number of employees for the following reasons:

- employees originating from the BAWAG bank prior to its integration with PSK in 2000 are generally senior employees with a high level of job security and hence expensive to dismiss;
- employees originating from the former PSK prior to its merger with BAWAG and who had civil servant status cannot be made redundant, unless they breach any corporate disciplinary rules.

Restructuring is not a reason to dismiss civil servants in Austria. The management estimates that about 60% of the staff nominated for retraining have a high level of job security.

Another reason for BAWAG PSK to avoid dismissals is that they are not part of its organisational culture, due to the strong link between the company and ÖGB. Furthermore, they are considered to be a measure of last resort in the Austrian legal system.

Lessons learnt 5

The various challenges faced by BAWAG over the last decade make it more difficult than usual to disentangle the impact of the BAWAG PSK merger, the effects of the company's financial difficulties resulting from its high-risk investments and the fall-out from the global economic crisis. This is further complicated by the fact that, due to BAWAG PSK's history and great political significance, it has benefited from strong government support over the years. However, it does appear that, although job reductions may have been on the horizon for some time for various reasons, they have increasingly been put into effect over the last 12-month period. Indeed, some uncertainty hangs over whether the policy of no compulsory redundancies can remain a reality in the future.

Restructuring at BAWAG PSK has been influenced by a number of critical factors, which to some extent set it apart from other restructuring cases.

- The political and social significance of BAWAG PSK, given its former ownership by ÖGB, has not only meant strong support from the government during difficult times but also a need to manage restructuring in a way that could limit compulsory job losses.
- The employment structure of BAWAG PSK, with a significant number of employees either with civil service status or long employment records, makes it costly, difficult or even impossible to effect compulsory job cuts.
- The significance of collective agreements and works-level agreements and the strong involvement of the works council in these decisions meant that provisions at BAWAG PSK largely exceeded what would have been available to employees in other economic sectors, although such measures are still comparable with other banks.

Evidence gained from the interviews conducted as part of this study differs from press pronouncements in relation to the reasons for job reductions at BAWAG PSK; however, the timing of the job cuts appears to indicate that a number of factors may well have played a role.

The sale of BAWAG PSK to a private investment consortium meant that the strong political ties and significance of the company no longer exerted as important an influence. The new owners are more motivated to restructure the business to maximise its profit margins. Nevertheless, despite the bank's new ownership, the way in which restructuring is carried out is determined by the strong legal provisions and collective agreements governing the sector, which require the provision of significant accompanying measures; in turn, this can be costly for the bank.

It is also interesting that stricter controls are being applied in the banking sector in the context initially of the European Commission challenges regarding the provision of state aid and now in the context of the requirement of government guarantees of the sector. These tighter controls might ultimately impact on human resource decisions and the nature of restructuring, with the possibility of compulsory redundancies no longer being avoidable.

Furthermore, it is ironic that, despite Austria's strict limitations on redundancies among older workers, the scheme of partial or early retirement operating in the banking sector still encourages many older workers to accept and benefit from early retirement options.

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Annex: Individuals consulted

Name	Institution	Position	Date of consultation/ interview
Ingrid Streibel-Zarfl	BAWAG PSK	Works council representative	18/05/2009
Verena Spitz	BAWAG PSK	Works council representative	18/05/2009
Gerhard Müller	BAWAG PSK	Human Resources Director	18/05/2009
Georg Adam	University of Vienna/EIRO	ERM/EIRO correspondent	18/05/2009
Maria Geyer	VoeBB	Secretary General	03/06/2009
Oliver Jonischkeit	Left Bloc of ÖGB	Federal Secretary	19/05/2009

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