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Austria: Notice period to employees

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Austria

Phase:

Management

Type:

Notice period to employees

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Native name:	Angestelltengesetz (AngG); Allgemeines Bürgerliches Gesetzbuch (ABGB); Gewerbeordnung (GewO); Arbeitsmarktförderungsgesetz (AMFG)
English name:	Employees Act (AngG); General Civil Code (ABGB); General Trade Act (GewO); Labour Market Promotion Act (AMFG)

Article

20 (AngG); 1159, 1159a, 1159b (ABGB); 77 (GewO); 45a (AMFG)

Description

An employer who wants to terminate an employment contract has to inform the affected worker accordingly. There are no legal regulations regarding the form or content, and the employer also does not have to provide a justification for the dismissal. An agreement of the employee is not required for the effectiveness of the termination.

For white collar workers deadlines and dates regarding the notice period are specified in the Employees Act ([AngG § 20](#)), for blue collar workers regulations can be found in the General Trade Act ([GewO § 77](#)), the relevant collective agreement, the works agreement or otherwise in the General Civil Code (ABGB). Employment contracts of white collar workers can be terminated at the end of each quarter (31 March, 30 June, 30 September, 31 December) unless the individual work contract or a collective agreement specifies something else.

The notice period for white collar workers is:

- six weeks, if the employment lasted for up to two years;
- two months, if the employment lasted two to five years;
- three months, if the employment lasted five to 15 years;
- four months, if the employment lasted 15 to 25 years; and,
- five months, if the employment lasted more than 25 years.

The notice period for blue collar workers in business enterprises (*Gewerbebetrieb*) is two weeks ([GewO § 77](#)) - if not specified differently in collective or work agreements. In other cases the regulations of [§ 1159 AGBG](#) apply; setting a notice period of:

- one day for those who are paid on hourly or daily basis or by piecework;
- one week, if the employment lasted at least three months or the worker is paid on a weekly basis;
- four weeks, if the worker carries out more complex activities (*'Dienste höherer Art'*) and the employment lasted at least three months.

Amendments to [§ 1159 AGBG](#), which passed the National Assembly on 12 October 2017, adapt the notice period of blue collar workers' legislation to that of white collar workers. The minimum notice period is 6 weeks; additionally contracts can only be terminated by the end of each quarter. After, the same notice periods as for white collar workers apply:

- six weeks, if the employment lasted for up to two years;
- two months, if the employment lasted two to five years;
- three months, if the employment lasted five to 15 years;
- four months, if the employment lasted 15 to 25 years;
- five months, if the employment lasted more than 25 years.

The law allows for deviations to the detriment of worker ([§ 1159 \(2\)](#)) in sectors which are predominantly characterised by seasonal work as defined by [§53 \(6\) ArbVG](#) (e.g. construction industry, hospitality industry). The law is scheduled to enter into force on 1 January 2021 to give the social partners the opportunity to adapt the collective agreements.

In case of [collective dismissals](#) (within 30 days, at least 5 dismissals in companies with 21–99 employees, at least 5% of the workforce in

companies with 100-600 employees, at least 30 employees in larger companies, or if at least 5 employees aged 50+ are dismissed) employers are required to notify their workforce of redundancies at least 30 days before the planned first dismissals. The same period applies for giving notice to the affected employees.

Comments

Collective agreements and work agreements can provide more favourable provisions (from the perspective of the employee) than the statutory ones. However, unlike white collar workers, regulations in collective agreements, work agreements and individual contracts of blue collar workers can also be to the disadvantage of the employee.

In the course of legislative adaption of the notice period of blue and white collar workers (§ 1159 ABGB) also § 77 GewO will cease to be in force by the end of 2020.

Cost covered by

Not applicable

Involved actors other than national government

National government only

Thresholds

No, applicable in all circumstances

Sources

-  Ius Laboris (2011), Individual Dismissals Across Europe, Brussels
-  Ius Laboris (2009), Collective Redundancies Guide, Brussels
-  EMCC - Legal framework for restructuring
-  Wirtschaftskammer Österreich (Austrian Federal Economic Chamber): Kündigungsfristen
-  Arbeiterkammer (Austrian Chamber of Labour): Kündigung durch den Arbeitgeber
-  Angestelltengesetz § 20
-  Allgemeines Bürgerliches Gesetzbuch § 1159
-  Allgemeines Bürgerliches Gesetzbuch § 1159 (in effect from 1.1.2021)
-  Allgemeines Bürgerliches Gesetzbuch § 1159a
-  Allgemeines Bürgerliches Gesetzbuch § 1159b
-  Arbeitsmarktförderungsgesetz § 45a
-  Gewerbeordnung § 77
-  Bundeskanzleramt Informationsservice (Federal Chancellery of Austria): Kündigungsfristen und -termine
-  EC flash report on Labour Law, October 2017
-  Arbeitsverfassungsgesetz ArbVG § 53

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