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Germany: Reemployment obligation after restructuring

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Germany

Phase:

Management

Type:

Reemployment obligation after restructuring

Last modified: 27 September, 2019

Native name: **Wiedereinstellung**

English name: **Reemployment**

Article

Case law only; applicable to establishments and workers covered by article 1 of the Employment Protection Act (Kündigungsschutzgesetz)

Description

Following labour court rulings (see sources below), workers hold the right of reemployment if they are covered by the Employment Protection Act (Kündigungsschutzgesetz, KSchG) and if it can be shown that he/she was dismissed on grounds of wrong or outdated projections of future business developments. Workers have to file complaints for reemployment within the statutory time of dismissal protection (up to seven months depending on the tenure). The regulations only apply to employers employing more than 10 workers and to workers who have worked for the establishment for more than six months.

Comments

The right of reemployment is only based on case law and not on statutory legislation. A recent ruling by the federal labour court from 2017 endorsed that it only applies to workers covered by the Employment Protection Act.

Cost covered by

Not applicable

Involved actors other than national government

Other

Involvement others

Court

Thresholds

Company size by number of employees:

11

Sources

- [Wiedereinstellung \(online information on reemployment by private law agency\)](#)
- [Kündigungsschutzgesetz](#)
- Bundesarbeitsgericht (BAG) ruling from 14 December 1958, 1 AZR 29/55
- Bundesarbeitsgericht (BAG) ruling from 20 August 1997, 2 AZR 620/98
- Bundesarbeitsgericht (BAG) ruling from 2 November 2006, 2 AZR 509/05
- Bundesarbeitsgericht (BAG) ruling from 28 June 2000, 2 AZR 904/17
- Bundesarebitsgericht (BAG) ruling from 4 December 1997, 2 AZR 140/17
- Bundesarbeitsgericht (BAG) ruling from 19.10.2017 - 8 AZR 845/15

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