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Germany: Working time flexibility

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Germany

Phase:

Management

Type:

Working time flexibility

Last modified: 08 February, 2022

Native name: Sozialgesetzbuch (SGB) III

English name: Social code book III

Article

95-111, 134

Description

The Social code book III provides for three forms of short-time working arrangements ('Kurzarbeit').

- The first, structural short-time working ('Konjunkturelle Kurzarbeit', KUG), is applicable in case of a temporary and unavoidable shortfall of orders due to economic downturns/crises or due to unavoidable disasters. This form was extensively used during the brief economic crisis in 2009 and is still promoted for mitigating impacts of the European crisis on export-oriented industries. At the peak of the crisis, 5.2% of all workers worked short-time compared to only 0.2% in 2015.
- The second form is short-time working in the event of restructuring ('Transferkurzarbeit', Transfer-KUG). In this case, the duration of short-time working is used for training or job transfer measures.
- The third arrangement, seasonal short-time working ('Saisonkurzarbeit', Saison-KUG) is a sector-related instrument to weather typical seasonal downturns (such as in the construction sector, for example).

In all of these cases, if an employer wants to introduce short-time working, they must first consult the works council and then apply to the Federal Employment Agency ('Bundesagentur für Arbeit') for approval.

The company has to have exhausted other options that might help to avoid using short-time working, such as granting leave days, use of holiday entitlements of previous years or of 10% of the working time account of the running year.

Short-time working may be set in place if one third of the workforce is affected by a wage drop of over 10% due to a temporary decrease in workload. The workforce in this case is defined as including standard and non-standard workers (excluding temporary agency workers and home workers). In the calendar month for which short-time working support is applied, at least one third of a company's employees (or one of several specific units) must be concerned.

If short-time working is approved by the Federal Employment Agency, the employer pays for the actual working time and the Federal Employment Agency contributes a short-time working allowance of 60% of the missing net wage. This share increases to 67% if the worker is a parent. Short-time working allowances are granted to standard and non-standard workers liable to social security contributions for monthly wages that do not exceed €7,100 in western Germany and €6,700 in eastern Germany (2021). Workers with 'mini-jobs' are not liable to social security contributions (earning up to €450 per month), but also temporary agency workers (holding a work contract with another employer) and trainees are excluded.

The maximum duration of state-funded short-time working allowances is six months. According to the legislation, this maximum duration can be extended by ministerial decree to up to 12 months in cases of exceptional circumstances in the labour market in specific industries or regions. It can be extended even up to 24 months in cases of exceptional circumstances on the general labour market. Currently short-time working allowances are granted for six months (2020).

While a company is receiving public short-time working support, new employees can only be recruited to sections of the company that are not subject to short-time working. Moreover, it has to be proven that the vacancy cannot be filled by one of the company's current short-time workers. Dismissals during short-time working are possible, but the worker has to return to full-time employment during the notice period, and the employer is then no longer entitled to the public short-time working allowance for that worker.

Response to COVID-19

Since 1 March 2020, companies that are faced with a decline in orders due to the COVID-19 crisis can apply for short-time working support if

at least 10% of their workforce is affected by lack of work and remaining hours on working time accounts have been depleted.

The maximum duration of receiving the short-time working allowance has been extended in several steps up to 24 months, and employers' contribution to social insurance are fully reimbursed by the public employment service until 30 September 2021 (50% between October and December 2021).

Furthermore, the short-time working allowance has been raised to 70% or 77% from the fourth month of short-time working, and to 80% or 87% from the seventh month of short-time working.

The COVID-19 requirements to apply for the short-time allowance are valid until 31 December 2021.

Comments

This measure is a central instrument for preventing dismissals. The measure offers companies cost and productivity advantages by adjusting working time to the market situation and volatile demand. It makes it possible to react quickly and flexibly to volatile production levels by enabling an immediate return to full-time work in case order levels improve. The need for severance payments and costs related to hiring and induction of new staff that may arise in case of dismissals are avoided. At the same time, workers benefit from job security. The public support partly compensates workers for their loss of income and allows them to maintain a level of social security. Drawing a short-time allowance does not affect eligibility periods for unemployment benefits. The Federal Employment Agency supports low skilled workers in undertaking training during the time of short-time working.

The Federal Employment Agency provides monthly data on short-time working. The total number of workers receiving short-time working allowance stood at 310,000 (40,000 establishments) in February 2019, of which 28,600 workers (1,600 establishments) received structural short-time allowance. One year later, in February 2020, the Federal Employment Agency counted 134,000 workers (4,700 establishments) receiving structural short-time allowance. In March 2020, with the start of the pandemic crisis, figures changed dramatically: 342,000 establishments ran structural short-time work affecting 2.58 million workers. In April 2020, figures rose to an all-time high of 610,000 establishments with 5.99 million affected workers. In May 2020, this number started to decrease, reaching a level of 2.02 million affected workers in October 2020. In January 2021, with the second wave of the crisis, 421,000 establishments and 3.29 million workers were affected by structural short-time work.

Cost covered by

National government

Involved actors other than national government

Public employment service
Works council

Thresholds

No, applicable in all circumstances

Sources

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