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EMCC

European Monitoring Centre on Change

Germany: Effects of non-compliance with dismissal regulations

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Germany

Phase:

Management

Type:

Effects of non-compliance with dismissal regulations

Last modified: 16 May, 2019

Native name:

Kündigungsschutzgesetz

English name:

Employment Protection Act

Article

3, 17, 18

Description

Collective redundancies (dismissal of at least 6 employees in companies with 21-59 workers, at least 10% (or 26) in companies with 60-499 workers, or at least 30 dismissals in larger firms) have to be announced to the public authorities and only come into effect if they are approved by the authorities within three weeks time. The law does not foresee any penalties for the employer in case of non-compliance.

Since 2004, the employment protection act only applies to establishments with a minimum of ten full-time workers on permanent contracts. Workers working in the establishment for at least six months who object to their individual dismissal on social grounds may turn to the works council for complaint. The works council shall consult with the employer to find a solution.

In case a works council is not in place the individual worker has to appeal to the labour court.

Comments

The above derives from the Employment Protection Act as the Work Constitution Act does not foresee the case of non-compliance as the employer is not obliged to conclude a balance-of-interests agreement. However, a social plan has to be agreed upon, either by the works council and management or by an arbitration committee.

Cost covered by

Not applicable

Involved actors other than national government

Works council

Other

Involvement others

Court

Thresholds

Company size by number of employees:

21

Number of affected employees:

6

Sources

-  Ius Laboris (2009), Collective Redundancies Guide, Brussels
-  [EMCC - Legal framework for restructuring](#)
-  Alpha Consulting (2003), Anticipating and Managing Change - A dynamic approach to the social aspects of corporate restructuring, European Commission, Brussels
-  Kündigungsschutzgesetz

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