

GGI EASY MEET DÜSSELDORF

KEY ASPECTS OF GERMAN EMPLOYMENT LAW

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AGENDA

- I. Search for employees**
- II. Employment contract**
- III. During Employment Relationship**
- IV. Termination of Employment**

I. SEARCH FOR EMPLOYEES

➤ Job Advertisement:

- Anti-Discrimination-Act: No discrimination on grounds of race, ethnical origin, sex, religion or ideology, disability, age or sexual identity
- Risk: Candidate can claim for damages up to three-month-salary when discriminated
- Unless: Objective Justification (e.g. catholic girls school)

➤ No forbidden questions (e.g. pregnancy)

II. EMPLOYMENT CONTRACT

- Regarded as „Terms and Conditions“ of businesses
 - no surprising or discriminating clauses
 - clear language → transparency for employee
 - discrimination or lack of transparency goes to the disadvantage of employer

- In general no written form required, but key information has to be given to employee in writing (Act on Notification of Conditions governing an Employment Relationship)

II. EMPLOYMENT CONTRACT

- No limitation of statutory termination period (depending on duration of employment)

- No limitation of statutory number of holidays (20 days in a 5 day week)

- But: Limitation of statutory limitation period for claims arising of the employment relationship to 3 months after due date (e.g. salary)
 - reason: creation of legal certainty
 - result: claim is forfeit

III. DURING EMPLOYMENT RELATIONSHIP

- Activity of employee is determined by employers right to issue instructions
 - unless limited or specified in employment contract or other individual agreement (e.g. place of work)

- Warning letters
 - when employee violates contractual obligation
 - no dismissal due to misbehaviour without corresponding warning letter
 - Strict formal requirements

- Company Practice
 - An advantage granted by the employer three consecutive times without contractual obligation automatically grows into a contractual obligation (e.g. Christmas bonus)

III. DURING EMPLOYMENT RELATIONSHIP

- Incapacity to work due to sickness
 - after 4 weeks of employment
 - 6-weeks continued remuneration

- Pregnancy and parental leave
 - Pregnancy: maternity leave six weeks before and eight weeks after birth
 - Parental leave: up to three years until eighth birthday of child

IV. TERMINATION OF EMPLOYMENT

- “Easy” way of terminating an employment relationship:
 - End of fixed-term contract
 - Termination within probation period
 - Termination Agreement
 - Court settlement

- “Difficult”: Termination of indefinite employment contract after probation period, depending on applicability of Act of Protection Against Unfair Dismissal
 - Applicable if employer employs 10 or more employees
 - Consequence: Employer needs a termination reason for valid termination
 - Exception: Termination for good cause with immediate effect

IV. TERMINATION OF EMPLOYMENT

- Termination reasons: due to
 - Behaviour of employee (e.g. always late)
 - Personal reasons (e.g. loss of drivers license)
 - Operational reasons (e.g. order decline)

- Termination due to operational reasons:
 - Social selection between comparable employees
 - If assignment of another workplace is appropriate, termination is invalid – termination always must be the last option

- **No termination** of pregnant, disabled and other protected employees such as works council members

THANK YOU FOR YOUR ATTENTION!

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