

## Austria

# Selection of employees for (collective) dismissals

<b>Phase</b>	Labour Constitution Act (ArbVG); Maternity Leave Act (MSchG); Parental Leave for Fathers Act (VKG); Security of Workplace Act (APSG)
<b>Native name</b>	Arbeitsverfassungsgesetz (ArbVG); Mutterschutzgesetz (MSchG); Väter-Karenzgesetz (VKG); Arbeitsplatzsicherungsgesetz (APSG)
<b>Type</b>	Selection of employees for (collective) dismissals
<b>Added to database</b>	08 May 2015
<b>Access online</b>	<a href="#">Click here to access online</a>

## Article

105 (ArbVG); 10 and 15n (MSchG); 7 (VKG); 12 (APSG)

## Description

When selecting employees for (collective) dismissals, the employer has to take into consideration 'social hardship', that is the potential negative consequences for the worker compared to other workers, influenced, for example by the likely duration of unemployment, future lower income levels, the health situation of the worker or the tenure in the current firm.

Certain groups of employees benefit from special protection against dismissal: Apprentices, pregnant women, parents on parental leave, disabled workers, workers fulfilling their military service, works council members, contract officers in the public service sector and janitors with company housing.

The employer has to inform the works council about each planned dismissal. The works council has one week to comment on the proposal. Upon the request of employees, works council or employee representatives are entitled to appeal to the court within one week after having been notified of a (collective) dismissal and object to it (e.g. in cases were the

employer did not inform the works council before dismissals, unfair dismissals on social grounds, membership in trade union etc.). Employees can also challenge the dismissal at court themselves within two weeks after having been informed, regardless of whether the works council has objected or approved the dismissal ([§105 ArbVG](#)).

## Commentary

The challenge of a dismissal in cases of 'social hardship' is only possible in companies where at least 5 employees are employed constantly. If the works council has approved dismissals that qualify as socially unjustified it is not possible to appeal to the court (§105 (3), 2).

## Additional metadata

<b>Cost covered by</b>	None
<b>Involved actors other than national government</b>	Works council
<b>Involvement (others)</b>	None
<b>Thresholds</b>	Affected employees: No, applicable in all circumstances Company size: 5 Additional information: No, applicable in all circumstances

## Sources

- [Arbeitsverfassungsgesetz \(ArbVG\) § 105](#)~~~ [Arbeitsplatz-Sicherungsgesetz \(APSG\) § 12](#)~~~ [Mutterschutzgesetz § 10](#)~~~ [Mutterschutzgesetz § 15n](#)~~~ [Väter-Karenzgesetz §7](#)~~~

## Citation

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