

Austria

Wage guarantee in case of insolvency

Phase	Act on wage guarantee in case of insolvency (IESG)
Native name	Insolvenz-Entgeltsicherungsgesetz (IESG)
Type	Wage guarantee in case of insolvency
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Article

whole legislation

Description

Employees, freelancers, home workers and apprentices (and their heirs or legal successors) are entitled to claims from the insolvency fund in cases of employer's insolvency/bankruptcy if a) employees are considered to be employed in Austria as defined in § 3 paragraph 1 or 2 (lit. a to d) of the general insurance act ([Allgemeines Sozialversicherungsgesetz, ASVG](#)), b) the insolvency procedure is opened in Austria and c) these claims have not yet been satisfied ([IESG, § 1](#)).

Insolvency is understood as:

- opening of a bankruptcy proceeding,
- appointment of an administrator,
- rejection of an application for opening bankruptcy proceedings due to insufficient assets or lack of court jurisdiction,
- deletion from the commercial register due to lack of assets,
- lack of assets in the case of the death of the entrepreneur or court decision that inheritance proceedings are to be devoted to the creditors.

Eligible are claims from:

- wages and severance payments,
- compensation from damages,
- other claims against the employer (like company pensions, daily allowances etc.), and
- costs related to the legal and administrative procedures to realise payment from these claims,

if they arose up to six months before filing for insolvency, up to a maximum of twice the amount considered for social security ('[Höchstbeitragsgrundlage]<https://www.gesundheitskasse.at/cdscontent/?contentid=10007.821072>) which is adjusted each year.

Employees of the state, federal states (provinces) and municipalities, as well as those having decisive influence on the organisation are not eligible.

Claims based on an avoidable transaction ('anfechtbare Rechtshandlung') or applicants who were convicted for a crime related to the insolvency (e.g., fraud, embezzlement, interception) are also not eligible.

Employees must apply within six months after the opening of insolvency proceedings. The claims will then be assessed. The assessment will include a consultation with the employer or insolvency administrator.

Payment is effected by the state-owned Insolvenz-Entgelt-Fonds-Service GmbH (IEF) which was specifically established for this purpose. The fund is financed by employers' contributions and public funds. The employers' contribution amount is subject to change.

If an employer does not pay, this does not reduce the benefits of the employees in case of insolvency.

Commentary

Annual data related to the insolvency fund, such as the number of applicants and disbursement, can be found in the IEF's Annual Financial Statements, available on its [website](#).

Additional metadata

Cost covered by Companies National government

Involved actors other than national government	Other
Involvement (others)	Insolvenz-Entgelt-Fonds-Service GmbH; insolvency administrator
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- Deutsch, A. (2011), Europäische Beispiele für die Insolvenzentgeltsicherung, Federal Ministry of Labour, Social Affairs and Consumer Protection/IEF, Vienna~~~ Sargant, M. (2007), Implementation Report Directive 80/987 EEC amended by Directive 2002/74/EC [protection of employees in the event of the insolvency of their employer], Human European Consultancy/Middlesex University Business School~~~
[Insolvenz-Entgeltsicherungsgesetz](#)~~~ [Allgemeines Sozialversicherungsgesetz \(ASVG\) - § 3](#)~~~ [Insolvenz-Entgelt-Fonds-Service GmbH \(IEF\)](#)~~~ [Arbeiterkammer: Insolvenz Entgelt](#)~~~ [Änderung des Insolvenz-Entgeltsicherungsgesetzes \(BGBl. I Nr. 30/2014\)](#)~~~ [Änderung des Insolvenz-Entgeltsicherungsgesetzes \(BGBl. Nr. 375/2015\)](#)~~~ [IEF - Bericht über die Prüfung des Jahresabschlusses 31.12.2018](#)~~~ [IEF - Bericht über die Prüfung des Jahresabschlusses 31.12.2015](#)~~~ [Änderung des Insolvenz-Entgeltsicherungsgesetzes \(BGBl. I Nr. 86/2021\)](#)~~~

Citation

Eurofound (2015), Austria: Wage guarantee in case of insolvency, Restructuring legislation database, Dublin