

Learn about your rights as soon as possible and get in touch with us!

Contact your union or a Fair Mobility Advisory Centre for more detailed information and answers to individual questions.



DISMISSED? WHAT NOW!

Faire Mobilität – Advisory Centres for workers from Central and Eastern Europe

www.faire-mobilitaet.de
kontakt@faire-mobilitaet.de

If you have a labour law problem at your workplace in Germany contact the free hotline of Faire Mobilität:

Bosnian-Croatian-Serbian

0800 0005776 / upit@faire-mobilitaet.de

Bulgarian

0800 1014341 / konsultacia@faire-mobilitaet.de

Czech

poradenstvi@faire-mobilitaet.de

Hungarian

0800 0005614 / tanacsadas@faire-mobilitaet.de

Polish

0800 0005780 / doradztwo@faire-mobilitaet.de

Romanian

0800 0005602 / consiliere@faire-mobilitaet.de

For a direct contact to one of our advisory centres please go to:
www.faire-mobilitaet.de/beratungsstellen



fair **DGB**

Arbeitnehmerfreizügigkeit
sozial, gerecht und aktiv

Dismissed? React quickly!

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Dismissed by your employer (Kündigung) – what now?

You can contest an unjustified or wrongful dismissal - even if the notice of dismissal is delivered only verbally. File a legal complaint (Klage) in the labour court (Arbeitsgericht)! But you have only three weeks from the date you were given the notice in order to do so!

Were you given notice in writing or verbally?

Verbal dismissal is generally not valid! Go back to your workplace and offer your employer to keep working (in front of witnesses and/or in writing).

There are certain formal requirements for written dismissals. Have your dismissal checked by a legal expert and keep the postmarked envelope it came in!

Caution: If you do not contest a notice of dismissal issued verbally, by SMS or email and do not file a legal complaint with the labour court, the dismissal will take effect.

Is it an immediate/summary dismissal or a regular one with a notice period?

Employers need 'good cause' (serious misconduct on your part) for a summary dismissal without a notice period (fristlose/außerordentliche Kündigung). The reason for dismissal need not be cited in the notice of dismissal.

Notice periods (Kündigungsfristen) apply to regular termination of employment (fristgerechte/ordentliche Kündigung): During your probation period (Probezeit), the notice period is usually 2 weeks. After the probation period, it is at least 4 weeks (Note: there are exceptions). These notice periods are defined in either the respective collective agreement (Tarifvertrag) or your own employment contract.

Be sure to check your employment contract or the applicable collective agreement and clarify whether the correct notice period has been observed!

Dismissal while you are sick?

Dismissals while you are sick are generally allowed in Germany. If your employment ends while you are still unable to work because of the illness, you can first apply for sick pay (Krankengeld) through your health insurer (Krankenkasse). Once you are healthy again, you must register as unemployed with the Federal Employment Agency (Agentur für Arbeit). In any case, you must submit a doctor's certificate (Arbeitsunfähigkeitsbescheinigung) for all periods of inability to work to your health insurer! If you are leaving Germany, inform your health insurer before you leave, because otherwise you may lose your right to sick pay and your health insurance!

Pregnant women have special protection against dismissal, even during the probation period.

Do I need to sign the dismissal notice?

You do not have to sign the dismissal notice you received from your employer. What counts is the fact that you have received it. It is enough if the notice is in your mailbox.

Caution: Often, the employer will ask you to sign a separation agreement (Aufhebungsvertrag). A separation agreement is an agreement stating that both parties have mutually agreed to terminate the employment contract. You may be giving up many of your claims if you sign this agreement. Therefore, you should sign the separation agreement, only if you really agree to the termination of your employment. Before signing it, make sure that you will not lose any of your rights as a result!

What can I do to contest a dismissal?

If you have worked for more than 6 months at a company with more than 10 full-time employees, you are protected by the Protection Against Dismissal Act (Kündigungsschutzgesetz). In this case, the employer must have a particular reason to dismiss you. If you believe your employer does not have such a particular reason, you can contest your dismissal in court. In court, you may negotiate with your employer for severance pay (Abfindung).

In any case, when you receive a notice of dismissal, you should immediately get in touch with the appropriate trade union, a lawyer or an advisory centre.

What are the next steps?

You have received a notice of dismissal and are staying in Germany? In that case, you must register as unemployed immediately (within 3 days) with the Federal Employment Agency (Agentur für Arbeit), in order to secure your entitlement to unemployment benefits. If you register too late, you might be prevented from receiving your unemployment benefits for a certain period of time.

Everyone who has worked for at least 12 months over the last 30 months, and for whom social security contributions have been regularly paid, is entitled to unemployment benefit type I (Arbeitslosengeld I, ALG I). Otherwise, you can apply for unemployment benefit type II (Arbeitslosengeld II, ALG II) at the JobCenter.

Important: If you receive unemployment benefits, you are still covered by your health insurance!

Remember that you should get your last pay following dismissal on the regular pay date (e.g. the 15th of the following month)! Employers often fail to make this payment or do not pay the full amount. Make sure that the amount you have received is correct! Contact an advisory centre without delay, if you have not received your pay!

Am I still covered by my health insurance?

You are still covered by your health insurance of a period of one month after termination of your employment. In addition, your health insurance will remain in effect:

- if you find a new job,
- if you are receiving unemployment benefits, or
- if you receive insurance coverage through your spouse/partner.

Otherwise, you must insure yourself 'voluntarily' insure yourself with a statutory health insurance (freiwillige Krankenversicherung) and pay the contribution yourself. If you leave Germany, you should deregister with the local authorities and inform your health insurer that you are moving away. Otherwise, the health insurance will continue to demand payment of your contributions.

What am I entitled to demand from my employer?

Following termination of your employment you are entitled to a job reference letter (Arbeitszeugnis) and separation papers, which include deregistration from the social security system (Abmeldung zu Sozialversicherung) and a printout of your electronic income tax certificate (Lohnsteuerbescheinigung). Check to ensure that your employer has compensated you for any remaining claims (such as unused leave or surplus hours on your work-time account). If you have any problems, ask the union or an advisory centre.

I want to terminate my employment contract myself ...

If you do not formally terminate your employment contract in the proper manner, you may be subject to a penalty for breach of contract from your employer (Vertragsstrafe). Provision for such a penalty must be made in the employment contract and may not exceed one month's salary. It may happen that you do not receive your last salary or receive only a partial salary payment.

In order to avoid this:

- Always give your employer a written termination notice even if you do not have a written employment contract!
- Observe the notice periods!
Important: What counts is the date your employer receives your termination notice.
- Be sure to allow enough time for delivery by mail and send your termination notice as a registered letter (Einschreiben). You may also mandate another person (a friend or colleague) to deliver the letter to your employer! In doubt, ask an advisory centre for help!

Further information is provided in your language at our website: www.fair-arbeiten.eu

We recommend that you join a union on your first day in Germany! Contact the union that represents your industry. If you aren't sure, ask an advisory centre. If you are already a union member in your home country, ask if your membership will be accepted temporarily by the German trade union.