

Willkommen  
Dobrodošli! Welcome  
Bun venit! Добро пожаловать!

# Dismissed? – React quickly!

## European Fair Mobility Project

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Advisory centres for mobile workers from Central and Eastern Europe  
[www.fair-labour-mobility.eu](http://www.fair-labour-mobility.eu)

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If your employer has dismissed you, you have to react quickly.  
Here you can find directions on how to act properly in case of dismissal.

# 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 only have three weeks from the date you were given the notice in order to do so!

## Were you given notice in writing or verbally?

A verbal dismissal is generally not valid! Go back to your workplace and in front of witnesses, offer your employer to keep working!

**Caution:** If you do not contest a verbal dismissal and do not file a legal complaint at the labour court, the dismissal will take effect.

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

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

Employers need a 'good cause' (a serious misconduct on your part) for a summary dismissal without a notice period (fristlose/außerordentliche Kündigung).

For a regular termination of contract (fristgerechte/ ordentliche Kündigung), notice periods (Kündigungsfristen) apply: During your probation period (Probezeit), this notice period is usually 2 weeks. After the probation period, it is at least

4 weeks (Note: there are exceptions). The notice periods are regulated either by the respective collective agreement or by your own employment contract. Be sure to check your employment contract or the applicable collective agreement (Tarifvertrag) and clarify whether the correct notice period has been respected!

## 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 sickness, you can first apply for sick-pay (Krankengeld) through your health insurance (Krankenkasse). Once you are healthy again, you must register as unemployed at the Federal Employment Agency (Agentur für Arbeit). In any case, you must send the doctor's note for your

sick leave (Krankenschreibung) to your health insurance! If you are leaving Germany, inform your health insurance 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.

**Caution:** Often, the employer will ask you to sign a separation agreement (Aufhebungsvertrag). A separation agreement is an agreement, stating that both sides have mutually agreed to end the employment contract. Many of your demands

might be lost with the signing of this agreement. Therefore, sign the separation agreement, only if you really agree with the termination of your employment. Before signing it, make sure that you will not lose some 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 needs a particular reason to dismiss you. If you believe your employer does not have such a particular reason, you can contest your dismissal in front of the court. At the court, you may negotiate

with your employer for a 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 you remain in Germany? In that case, you immediately have to (within 3 days) register as unemployed at the Federal Employment Agency (Agentur für Arbeit), in order to secure your right to unemployment benefits. If you register too late, you might be deprived from receiving your unemployment benefits for a certain period of time.

Everyone who has worked for at least 12 months over the last 2 years and the social security contributions have been regularly paid, is entitled to unemployment benefit type I (Arbeitslosengeld I, ALG I). Otherwise, you can apply for unemploy-

ment benefit type II (Arbeitslosengeld II, ALG II) at the JobCenter.

**Important:** If you receive unemployment benefits, you keep having your health insurance!

Remember that you should get your last pay after the dismissal on the regular pay date (e.g. the 15th of the following month)! Often, employers fail to pay this, or do not pay the full amount. Make sure that the amount you have received is correct! Contact an advisory centre in a timely manner, if you have not received your pay!

## Do I still have my health insurance?

For the period of 30 days after the termination of your employment, you still continue to be covered by your health insurance. In addition, your health insurance will remain in place:

- if you find a new job,
- if you are receiving unemployment benefits, or
- if you get insured through your spouse/partner.

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

## What am I entitled to demand from my employer?

After a termination of your employment you are entitled to a job reference letter (Arbeitszeugnis) and leaving papers, which include deregistration from the social security system (Abmeldung zu Sozialversicherung) and a printout of your electronic

income tax certificate (Lohnsteuerbescheinigung). You may also be entitled to a payment for unused vacation. If you have any problems, ask the union or an advisory centre.

## I want to terminate my employment contract myself ...

If you do not terminate your employment contract in a proper and formal manner, you might receive a penalty for breach of the contract from your employer (Vertragsstrafe). This has to be written in the employment contract and may not exceed one month's salary. It may be that you do not receive your last salary, or you only get part of it. In order to avoid this:

- Always give your employer a termination notice in writing, even if you do not have a written employment contract!

- Pay attention to the notice periods (Kündigungsfristen)!  
**Important:** What counts is the date your employer receives your termination notice.
- Calculate 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 of yours) to deliver the letter to your employer! In doubt, ask an advisory centre for help!

**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 in the German trade union.