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Statutory Regulations on Severance Pay in Europe

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Statutory Regulations on Severance Pay in Europe

Abstract

The regulation of severance pay, that is the statutory benefits an employee receives from their employer to compensate for loss of income due to the termination of the employment, is left to the discretion of the Member States. The main characteristics of the legal entitlements employees have when leaving their job are summarised in the European Restructuring Monitor database on restructuring related-legislation. However, the database cannot provide a full picture as severance pay is not legally regulated in all countries (for example, Finland and Sweden). Even in those countries where a legal baseline exists, collective or company agreements and individual contracts may result in different provisions that cannot be captured by the database.

Keywords

European Union, severance pay, termination, regulation

Comments

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Statutory regulations on severance pay in Europe

info sheet

'The severance pay consists of a one-off lump-sum payment to a worker who has been involuntary dismissed. ... The payment may differ according to the reason for dismissal (justified or not justified). In the majority of countries severance payments exist in case of dismissal for economic reasons, while they are not usually due in case of dismissal for disciplinary reasons.'

Europe 2020 thematic summary on employment protection legislation



Background

The regulation of severance pay, that is the statutory benefits an employee receives from their employer to compensate for loss of income due to the termination of the employment,¹ is left to the discretion of the Member States. The main characteristics of the legal entitlements employees have when leaving their job are summarised in the European Restructuring Monitor database on restructuring related-legislation.² However, the database cannot provide a full picture as severance pay is not legally regulated in all countries (for example, Finland and Sweden). Even in those countries where a legal baseline exists, collective or company agreements and individual contracts may result in different provisions that cannot be captured by the database.

When does entitlement to severance pay arise?

In most countries, employees are legally entitled to severance pay in the event of collective dismissal or individual termination of employment for a reason not related to the employee. There are other circumstances under which employees are eligible, depending on country. In Slovakia, for example, employees who have

lost their ability to work due to changes in their health as a result of an occupational disease or its risk are entitled to severance pay from the employer.

While in most Member States permanent employees are entitled to severance pay, some countries extend this entitlement to employees on fixed-term contracts. In Spain, for example, severance pay for fixed-term contracts is 12 days' pay per year worked for contracts concluded in 2015, and if an employer dismisses a fixed-term employee before the contract expires, the employee will be entitled to additional severance pay.

Who pays?

In general, it is the employer's obligation to pay the severance pay directly to the employee. Sometimes, however, other organisations are involved. In Cyprus, for example, a national redundancy fund has been set up, financed by employers' contributions of 1.2% of employees' earnings up to a maximum amount. The fund distributes severance payments to employees in case of individual or collective dismissal. Similarly in Austria, employers pay a contribution of 1.53% of their employees' monthly pay into an employee provision fund. These contributions will not be paid out to an employee upon termination in certain cases: if the job is terminated upon their demand or because of misconduct, or if contributions have been paid for less than three years, or if the employee decides to not to draw them down. In these cases, the entitlements remain with the fund and can be drawn upon later on (that is, contributions from different employers will be

¹ This info sheet does not deal with payment in lieu of notice periods, top-up payments to early retirement pensions or other social benefits, compensation for holidays lost through dismissal or other supplements; neither does it cover employees' entitlements in case of employer insolvency.

² <http://www.eurofound.europa.eu/observatories/emcc/erm/legislation>



aggregated). In Italy, employees can opt to deposit the severance pay to which they are entitled in a pension fund, to top up their pension later on, rather than receiving the payment immediately.

In Luxembourg, employers with fewer than 20 employees can opt for an extended notice period instead of severance pay if employees with a seniority of more than five years are dismissed for economic reasons; these employees do not receive any severance pay at all. Estonian employees who have been with the same employer for at least five years receive a top-up of their severance pay from the unemployment insurance fund.

Severance pay mainly depends on years of service and wage level

In many countries, the severance pay is a lump sum that increases with the employee's tenure in the company and their wage level. In the Czech Republic, Denmark, Hungary, Italy, Lithuania, Poland, Portugal, Slovakia and Spain, employees with service of up to one year are entitled to severance pay (in most cases one month's pay), while in Luxembourg employees have to have a minimum of five years within the organisation before receiving severance pay. In France and Slovenia, employees with up to five years' tenure are entitled to severance pay amounting to a maximum of one month's pay; in Spain, the entitlement is 100 days' pay for the same tenure.

The most generous systems for employees with very long tenure seems to be in Cyprus (for example, three and a-half weeks' pay for every year of service up to 15 years) and Spain (20 days' pay for every year of service). More modest systems exist in France (one-third of the monthly salary per year of service for employment of more than 10 years) and Poland (for example, 3 months' pay for service of more than 7 years).

In contrast to the above, in Estonia employees are entitled to one month's average wage upon termination of the contract irrespective of their tenure.

In the UK, severance pay not only depends on employees' tenure, but also on their age. Employees aged 18–21 receive half a week's pay for each full year of service, while those aged 22–40 receive one week's pay, and those aged 40 and over receive one and a-half week's pay for each full year of service.

Some countries have established a maximum amount of severance pay, calculated on the basis of the national minimum wage (for example, in Poland or Portugal) or the consumer price index (as in the UK).

About the ERM

The European Restructuring Monitor (ERM) is a unique EU-wide information source on restructuring. It monitors larger-scale restructuring events and provides comparable information on restructuring support instruments and restructuring-related regulations in the EU28 and Norway. For more details on the ERM, please visit the website at:

www.eurofound.europa.eu/emcc/erm/info.htm

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