

Employment protection in Austria – 2008

Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract	Notification first to Works Council (if one exists), then to employee.
Item 2 Delay involved before notice can start	Maximum 5 days for Works Council to react. Notice can then be served, usually orally.
Item 3 Length of notice period at different tenure durations	Blue collar: Usually 2 weeks (but ranging from 1 day in construction industry to 5 months in some collective agreements). White collar: 6w<2y, 2m<5y, 3m<15y, 4m<25y, 5m>25y.
Item 4 Severance pay at different tenure durations	No severance pay, but individual severance accounts with defined contribution. In the case of dismissal by the employer, an employee with at least three years of job tenure can chose between receiving his/her severance payment from the account, or saving the entitlement towards a future pension. If the employee quits or if job tenure is shorter than three years, no severance payment will be made but the balance of the account is carried over to the next employer. The amount of severance pay will depend on the capital accrued in the fund, the investment income earned and the capital guaranteed.
Item 5 Definition of unfair dismissal	Fair: dismissals for "serious reason", including non-performance or lack of competence, and for operational reasons or other business needs. In the case of dismissal for operation reasons, the court may examine whether dismissal was actually necessary or whether it would have been possible to transfer the worker to another post. Unfair: "socially unjustified" dismissals (which would affect the dismissed employee more unfavourably than other comparable employees of the company, or which would impair the interests of the employee to a greater degree than the interest of the firm in dissolving the employment relationship); and dismissals on inadmissible motive (e.g. discrimination, trade union activity or imminent military service). Employers intending to terminate older workers' contracts with a tenure of more than 2 years have to take social aspects into account if it appears to be difficult for such workers to get another job.
Item 6 Length of trial period	Usually 1 month.
Item 7 Compensation following unfair dismissal	In the event of socially unjustified dismissal, the employee is entitled to compensation equal to earnings between the dismissal and the legal settlement of the case. Sums earned by the employee in the interim are set off against the award. Typical compensation at 20 years tenure: 6 months (assuming case takes 6 months).
Item 8 Reinstatement option for the employee following unfair dismissal	The employee has the right to choose between reinstatement and compensation, although this option is rarely taken up by the employee concerned.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made	If the works council has expressly objected to the intended dismissal within the specified period of time, it may contest the dismissal in the labour and social court at the request of the employee within one week of having been informed that the notice has been served. If the works council does not act on this request, the dismissed employee may himself/herself challenge the dismissal in court within one week after the expiry of the period set for the works council.
Item 10 Valid cases for use of fixed term contracts	No restrictions for first contract.
Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)	A succession of fixed-term contracts will automatically result in an open-ended employment contract of indeterminate length unless objective or material reasons can be shown to justify the need to renew a fixed-term contract.
Item 12 Maximum cumulated duration of successive FTCs	No limit specified.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	General, if contract is indefinite but limited to "objective reasons" if it is of fixed duration.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?	No restrictions.
Item 15 Maximum cumulated duration of TWA contracts	No limit.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Requires special administrative authorisation as well as periodic reporting obligations..
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Regulations ensure equal treatment regarding pay as well as other working conditions.

Item 18 Definition of collective dismissal	Within 30 days, 5+ workers in firms 20-99; 5%+ in firms 100-599; 30+ workers in firms>600; 5+ workers >50 years old.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal	Notification of employee representatives: General duty to inform the Works Council about changes affecting the business. Notification of public authorities: Notification of local employment office.
Item 20 Additional delays involved (compared to Item 2)	30 days waiting period before first notice can become effective.
Item 21 Other special costs to employers in case of collective dismissals	Type of negotiation required: Consultation on alternatives to redundancy and ways to mitigate the effects: social plan to be established in firms with >20 employees. Selection criteria: No criteria laid down by law. Severance pay: No legal requirements, but often part of social compensation plans.

This summary was produced by the OECD based on responses to a questionnaire submitted by authorities in OECD member countries. It describes the situation current as at 1 January 2008 and is the basis for calculating the OECD employment protection indicators. To find out more about the methodology used to calculate the OECD employment protection indicators, see www.oecd.org/employment/protection.