



ANNEX 1

1. SELECTED PROVISIONS OF THE AUSTRIAN CIVIL CODE

§ 879 - Chapter: Possibility and permissibility

- 1. A contract that contravenes a legal prohibition or offends against morality is null and void. [...]

§ 1293 - Of the right to damages and satisfaction

Damage means any disadvantage that has been inflicted on someone's property, rights or person. It is different from the loss of profit that someone has to expect according to the usual course of events.

§ 1295 - From liability to compensation

- 1. Anyone is entitled to claim compensation from the injuring party for the damage which the latter has caused him through his own fault; the damage may have been caused by a breach of a contractual obligation or without reference to a contract. [...]

§ 1298 - From liability to compensation

Anyone who claims that he was prevented from fulfilling his contractual or legal obligations without any fault on his part bears the burden of proof. [...]

2. SELECTED PROVISIONS OF THE EMPLOYMENT CONTRACT ADAPTATION ACT

§ 1 – Scope of application

- 1. This Federal Act applies to employment relationships based on a contract under private law. [...]

§ 2 - Written record of the contents of the employment contract

- 1. The employer must provide the employee with a written record of the essential rights and obligations arising from the employment contract (service note) immediately after the commencement of the employment relationship. [...]

- 2. The service note shall contain the following information:
[...]
- 6. usual place of work, if necessary reference to changing places of work,
[...]

- 6. The employee must be notified in writing of any change to the information pursuant to para 2 [...] without delay and no later than one month after it becomes effective [...]

3. SELECTED PROVISIONS OF THE AUSTRIAN ACT ON WHITE COLLAR WORKERS

§ 1 – Scope of application

- 1. This Federal Act applies to the employment relationship of persons who are employed in the business operations of a merchant primarily for the performance of commercial (assistants) or higher, non-commercial services or for secretarial work.
[...]

§ 20 – Chapter: Termination

- 1. If the employment relationship has been entered into or continued without a fixed term, it may be terminated by giving notice in accordance with the following provisions.

- 2. In the absence of an agreement more favourable to the employee, the employer may terminate the employment relationship at the end of each calendar quarter by giving prior notice. The period of notice shall be six weeks and shall be increased to two months after the completion of the second year of service, to three months after the completion of the fifth year of service, to four months after the completion of the fifteenth year of service and to five months after the completion of the twenty-fifth year of service.

- 3. The period of notice may not be reduced by agreement below the period specified in paragraph 2; however, it may be agreed that the period of notice shall end on the fifteenth or last day of a calendar month.
[...]

§ 27 – Chapter: Premature dissolution

An important reason entitling the employer to dismissal with immediate effect shall be considered in particular:

- 1. if the employee [...] is guilty of an act which makes him/her appear unworthy of the confidence of the employer;
[...]

4. if the employee, without a legitimate reason, fails to perform the service for a considerable period of time taking into account the circumstances, or if he/she persistently refuses to perform his/her services or to comply with the employer's orders justified by the nature of the service, or if he/she attempts to induce other employees to disobey the employer;
[...]

§ 29 – Chapter: Premature dissolution

- 1. If the employer dismisses an employee with immediate effect without good cause or if he is at fault for the employee's constructive dismissal, the employee shall, without prejudice to further damages, retain his contractual entitlement to remuneration for the period which should have elapsed until the termination of the employment relationship by the expiry of the specified contractual period or by proper termination by the employer giving notice, taking into account what he saved as a result of not providing the service or what he acquired or intentionally failed to acquire through other employment.

- 2. Insofar as the period referred to in paragraph 1 does not exceed three months, the employee may demand the entire remuneration due for this period without deduction immediately, the remainder at the agreed or statutory (§ 15) time. [...]

4. SELECTED PROVISIONS OF THE FEDERAL ACT ON THE ORGANISATION OF WORKING TIME¹

§ 3 – Normal working time

- 1. The normal daily working time may not exceed eight hours, the normal weekly working time may not exceed forty hours, unless otherwise provided below.

- 2. Any reduction in working time as a consequence of the entry into force of this Federal Act may not result in any pay cuts for the workers concerned (wage compensation). Any hourly pay shall be increased by the same ratio by which the working time is reduced. Any piece, task or job wages, or any types of payment by results, shall be adjusted accordingly. Another regime of wage compensation may be agreed by collective agreement.

§ 4b – Flexible working time

- 1. Flexible working time means that workers may decide for themselves about the beginning and end of their normal daily working hours within an agreed timeframe.

- 2. Flexible working time shall be agreed by plant-level agreement or, in companies having no works council, by written agreement (agreement on flexible working time).

- 3. Such an agreement on flexible working time shall include:

¹ Source: https://www.ris.bka.gv.at/Dokumente/Erw/ERV_1969_461/ERV_1969_461.pdf

1. duration of flexible working time period,
2. timeframe for this regime,
3. maximum of any time credits and time debits that may be carried over to the next period of flexible working time, and
4. duration and pattern of fictitious normal working hours.

- 4. Normal daily working time may not exceed ten hours. An extension of normal daily working time to up to twelve hours is permitted if the agreement on flexible working time provides for the possibility to use up time credits in whole days, and using up time credits in connection with weekly rest periods is not excluded. Normal weekly working time within any period of flexible working time may exceed, on average, normal weekly working time under §3 only insofar as options for carrying over time credits are in place.

- 5. If an employer requires workers to work hours exceeding normal working time under §3 (1), such working hours shall be deemed to be overtime.

§ 12 - Rest periods

- 1. After termination of daily working time every worker shall be entitled to a minimum daily rest period of eleven hours.

- 2. This uninterrupted rest period may be reduced to a minimum period of eight hours by collective agreement. Such reduced rest periods shall be made up, within the next ten calendar days, by an appropriate extension of another daily or weekly rest period. Any reduction to less than ten hours shall be permitted only if other measures ensuring workers' recuperation are required by collective agreement.

[...]

5. SELECTED PROVISIONS OF THE DISABILITY EMPLOYMENT ACT

§ 1 – Employment obligation

All employers who employ 25 or more employees (§ 4 para 1) in the territory of the Federal Republic are obliged to employ at least one preferential disabled person (§ 2) for every 25 employees. [...]

§ 3 - Disability

For the purposes of this Act, disability is the impact of a physical, mental or psychological impairment or impairment of sensory functions which is not merely temporary and which is likely to make participation in working life more difficult. A period of more than six months is considered to be not only temporary.

§ 6 - Appropriate precautions and incentive measures

[...]

- 1a. Employers shall take appropriate and, in a specific case, necessary measures to enable persons with disabilities to have access to employment, to pursue a profession, to promotion and to participation in education and training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate if it can be sufficiently compensated for by incentive measures under federal or provincial law.

[...]

§ 7a - Protection against discrimination in employment – Scope of application

- 1. The provisions of sections 7b to 7q shall apply to the field of employment; these include

1. Employment relationships of all kinds based on a contract under private law,

[...]

§ 7b – Prohibition of discrimination

- 1. No one may be directly or indirectly discriminated against on the basis of disability in connection with an employment relationship pursuant to § 7a (1) (1)[...], in particular

[...]

6. in other working conditions,

[...]

§ 7c – Discrimination

- 1. Direct discrimination occurs where one person is treated less favourably on grounds of disability than another is, has been or would be treated in a comparable situation.

- 2. Indirect discrimination occurs where an apparently neutral provision, criterion or practice, or characteristic of a particular area of life, is liable to put disabled persons at a particular disadvantage compared with non-disabled persons, unless that provision, criterion or practice, or characteristic of a particular area of life, is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

[...]

§ 7g - Other legal consequences of discrimination in connection with an employment relationship

[...]

- 4. In the event of a violation of the prohibition of discrimination under section 7b (1) (6), the disabled employee shall be entitled to the same working conditions as another employee or to compensation for pecuniary damage and to compensation for the personal detriment suffered.

§ 7j – Amount of compensation

The amount of compensation for the personal impairment suffered shall be such as to compensate genuinely and effectively for the impairment and to ensure that the compensation is proportionate to the impairment suffered and prevents discrimination. Particular consideration must be given to the duration of the discrimination, the seriousness of any fault, the significance of the impairment and multiple discrimination.



§ 7k - Assertion of claims before the courts of general jurisdiction

- 1. Claims under sections 7e to 7i can only be asserted before the ordinary courts if the matter has previously been the subject of mediation proceedings before the Federal Office of Social Affairs and Disability (Social Ministry Service) [...].

§ 7p – Burden of proof

If the person concerned invokes discrimination within the meaning of § 7b (1) or harassment (§ 7d) before a court, he or she shall substantiate this fact. It is incumbent upon the defendant to prove, when relying on § 7b (1), that it is more likely, after weighing all the circumstances, that another motive plausibly put forward by the defendant was decisive for the different treatment. When invoking § 7d or discrimination caused by barriers, it is the defendant's responsibility to prove that it is more likely, after weighing all the circumstances, that the facts substantiated by the defendant are true.