



NEWS REPORT

Date: 28 May 2009
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Title: Age differentiation in social plans (redundancy program)
Country: Germany

Context: Labour Law
Issue at stake: Permissibility of age differentiation in social plans
Ground of age discrimination: of age
Source: national court decision
Field: employment
Legislative provisions: Sec. 10 sentence 3 no. 6 Allgemeines Gleichbehandlungsgesetz (AGG)

Content

Case: The applicant demanded compensation on the base of a social plan providing for such compensation for all “under the age of 59”.

Decision of the Court: The Federal Labour Court (Bundesarbeitsgericht), 26 May 2009 – 1 AZR 198/08 granted the compensation, arguing that a social plan (redundancy program) providing for compensation differentiating according to age or time of employment is reconcilable with Art. 10 sentence 3 no. 6 AGG. It is regarded also as permissible to exclude employees with a claim to a pension from such programs. Social plans are allowed to differentiate between employees of different age groups according to the economic risks these persons face who loose their employment. The Court argued that this risk can increase with age until a point is reached after which the risk decreases because special social security programs are available, including pension schemes.

Internet link source and additional information:

www.bundesarbeitsgerichts.de