



## NEWS REPORT

**Date:** 11 February 2010  
**Expert:** Matthias Mahlmann  
**Title:** Dismissal for lack of language skills  
**Country:** Germany

### Context

**Issue at stake:** Dismissal for lack of ability to speak German sufficiently  
**Ground of discrimination:** Ethnic origin  
**Source:** National court decision  
**Field:** Employment  
**Legislative provisions:** Sec. 3.2. Allgemeines Gleichbehandlungsgesetz (AGG)

### Content

**Case/law/political development:** The plaintiff of Spanish origin was dismissed because of his lack to read work instructions in German. The plaintiff, born in 1948, works for the defendant as a production aid since 1978. The employer paid a language course for the defendant in 2003, which he was allowed to attend during his working time. The plaintiff refused to start further courses offered. The worker council of the employer consented to the dismissal.

**Decision of the Court:** The Federal Labour Court (Bundesarbeitsgericht, 2 AZR 764/08, 28 January 2010) overturned a lower instance decision and upheld the dismissal. It argued that it does not form an indirect discrimination on the ground of ethnic origin to base the dismissal on the language abilities of the plaintiff. It held that the employer is entitled to demand sufficient language skills in written German. The employer offered enough opportunities to acquire the needed language skills.

Internet link source and additional information: [www.bundesarbeitsgericht.de](http://www.bundesarbeitsgericht.de)