

**Fourth German Bureaucracy Reduction Act –
Planned simplifications for HR practice,
particularly with regard to formal requirements**



With the draft of the Fourth Bureaucracy Reduction Act (*Viertes Bürokratieentlastungsgesetz – “BEG IV”*), which was decided and published on March 13, 2024, the German Federal Government has introduced a law whose main aim is to reduce unnecessary bureaucracy in the economy. In the context of employment law, the intended relief is to be achieved primarily by reducing formal requirements. In the following, we will summarize which simplifications are planned from an employment law perspective and what this means for the day-to-day work of HR departments.

Employment contracts

At least unlimited-term employment contracts do not require written form to be effective, even under the current legal situation, but can be legally concluded without adhering to a form. Nevertheless, the legislator has imposed burdens on companies that are subject to fines according to the New Evidence Act (*Nachweisgesetz – “NachwG”*), which came into force in August 2022. Employers were obliged to record the essential working conditions in writing. Electronic form was expressly excluded. In practice, this meant that employees had to be given a printed and hand-signed employment contract on their first day of work.

This is to change in the future. The government draft of the BEG IV already provides for a simplification according to which the submission of an employment contract concluded in electronic form in a printable format is sufficient for the proof of the essential working conditions. The German Federal Government now wants to go one step further and replace the written form (i.e. hand-signed document) with the text form (i.e. legible declaration naming the person making the declaration on a durable medium). The text form should be permissible provided the document is accessible to employees, can be saved and printed and the employer receives proof of transmission or receipt.

This means that at least unlimited-term employment contracts could in future be concluded completely digitally and without a qualified electronic signature, for example by e-mail. This would considerably simplify and streamline internal HR processes, especially for small and international companies. However, employees should still be able to request written proof from their employer. Furthermore, the written form requirement should generally remain in place for employers operating in an economic sector listed in the Act to Combat Undeclared Work and Unlawful Employment (*Schwarzarbeitsbekämpfungsgesetz – “SchwarzArbG”*), e.g. in the construction, catering, accommodation or building cleaning sectors.

Reference letters

According to the BEG IV draft, reference letters will no longer have to be hand-signed by the employer, the supervisor or manager of the employee. In future, electronic form and thus a qualified electronic signature will be sufficient. However, the employer should only be allowed to issue the reference letter in electronic form if the employee agrees to this. In future, employers should therefore obtain the employee's express consent before issuing a reference, for example by means of a corresponding provision in a termination agreement or in a court settlement. In addition, the written form will also be required in the future if the qualified electronic signature would allow inadmissible conclusions to be drawn to the detriment of the employee due to the time it indicates and backdating is legally required, for example in the case of certificate corrections.

Applications for (part-time) parental leave

The strict written form requirement should also no longer apply to applications under the Federal Parental Allowance and Parental Leave Act (*Bundeselternzeitgesetz* – "BEEG") according to the BEG IV. Both, the assertion of parental leave and the application for a reduction in working hours during parental leave by the employee as well as the employer's rejection could therefore be made in text form in future and thus primarily by e-mail.

Employee leasing agreement between lending and hiring company

The written form requirement is also to be replaced by text form with regard to personnel leasing contracts between lending and hiring companies. This would allow hirers and lenders to conclude employee leasing agreements by e-mail in future resulting in the reduction of bureaucracy and costs, particularly for small and medium-sized companies.

Conclusion

It is to be welcomed that the legislator is now seizing the opportunity and finally pushing ahead with the digitalization of HR processes in order to relieve the burden on companies and strengthen Germany as a business location overall. In particular, the reduction of strict formal requirements, especially for unlimited-term employment contracts, represents an important step forward for HR practice. Nevertheless, there is still need for further action. The draft bill provides for restrictions and exceptions to the simplifications in many places and completely ignores certain areas. The written form requirement that continues to apply to the termination of employment relationships (notices of termination and termination agreements) as well as to fixed-term employment contracts is particularly worthy of consideration. There is also still a lot to be done in terms of digitalization with regard to the Works Constitution Act (*Betriebsverfassungsgesetz* – “BetrVG”). The specific wording of the regulations remains to be seen, as well as whether further relief measures will be included in the Fourth Bureaucracy Reduction Act. This would be desirable from an HR perspective.

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