HAMBOORG.CITY

Free platform for foreigners in Germany

✓ 24/7 Assistant in Your Language
✓ Official Document Scanner
✓ Deadline Reminders
✓ Benefit Calculators

hamboorg.city — is and will be FREE

Severance Pay Upon Termination — Entitlement, Amount, and Taxes

When you are entitled to severance pay, how much it can be, and how severance is taxed.

Deutsche Begriffe: Abfindung | Kündigung | Aufhebungsvertrag | Abfindungsanspruch | Sozialplan | Kündigungsschutzklage

Is there a right to severance pay?

No — in Germany, there is fundamentally **no legal entitlement** to severance pay upon termination. Many people believe this, but it is a widespread misconception.

However, in practice, many employees receive severance pay. Why?

When is severance pay paid?

Situation	Severance Pay?
Settlement agreement	Often — as an incentive to leave voluntarily
Wrongful termination lawsuit — settlement	Very often — employer wants to avoid litigation risk
§ 1a KSchG — offer in termination notice	Legally provided (0.5 monthly salary/year)
Social plan	Yes — in case of mass layoffs, negotiated between works council and employer
Collective bargaining agreement	Sometimes — some agreements provide for severance
Regular termination (without lawsuit)	Usually **no**

How much is typical severance pay?

The rule of thumb

The common formula is:

> **0.5 gross monthly salary × years of employment**

Calculation example

- **Monthly salary:** €4,000 gross
- **Years of employment:** 8 years
- **Severance:** 0.5 × €4,000 × 8 = **€16,000**

What determines the amount?

Factor	Higher Severance	Lower Severance
Reason for termination	Weak justification	Strong reason (e.g., theft)
Litigation risk	Termination likely invalid	Termination likely valid
Age	Older employee (hard to place)	Younger employee
Employment duration	Long tenure	Short tenure
Company size	Large company	Small company
Industry	Financial sector, automotive	Hospitality, retail

In practice, severance pay typically ranges from **0.25 to 1.5 gross monthly salaries** per year of employment — sometimes higher.

Wrongful termination lawsuit — the path to severance

Why sue?

If your termination **could be unlawful** (e.g., improper selection for redundancy, weak grounds), you can file a **wrongful termination lawsuit** with the labor court.

Important deadline: 3 weeks!

You must file the lawsuit **within 3 weeks** of receiving the termination notice — otherwise the termination is valid, even if it was unlawful!

Procedure

1. Receive termination → contact attorney immediately

2. File lawsuit (within 3 weeks)

3. Settlement conference — approximately 2–4 weeks after filing, judge attempts reconciliation

4. Settlement — in approximately 60% of cases, parties agree on severance

5. Judgment — if no settlement: hearing (after 3–6 months)

Costs

Item	Cost (example: €4,000 salary, €16,000 severance)
Attorney fees (first instance)	approximately €2,000–3,000
Court costs (in case of settlement)	**€0** (no court costs with settlement!)
Legal aid	If low income: **free**
Legal expense insurance	Covers all costs (if employment law protection included)

Tip: Legal expense insurance must be obtained **before** the conflict arises!

Severance pay and taxes

Severance pay is taxable

Severance pay is **regular income** and must be taxed. However, there is the **one-fifth rule** (§ 34 EStG), which reduces tax liability.

One-fifth rule — how it works

Severance pay is taxed as if you had received it over **5 years**:

1. Your normal annual income: **€48,000**

2. Severance: **€20,000**

3. Without one-fifth rule: Tax on €68,000 → higher tax rate

4. With one-fifth rule: Tax on €48,000 + €4,000 (1/5 of severance) = €52,000, additional tax × 5

5. Savings: often several thousand euros

Since 2025: The one-fifth rule is **no longer automatically** applied by the employer, but only in your tax return. Plan for the tax accordingly!

Severance pay and social insurance

• **No social contributions** on severance (no health, pension, or unemployment insurance)

• **No employer contribution** — severance is exempt from social insurance

Severance pay and unemployment benefits

Avoid waiting periods

If you sign a **settlement agreement**, the employment agency typically imposes a **12-week waiting period** — you receive no unemployment benefits.

Exceptions: No waiting period if:

• You **faced termination anyway** (for operational reasons)

• The severance **does not exceed 0.5 monthly salary per year of employment**

• The **notice period is observed**

Benefit suspension period

If the severance is **very high** and the notice period **is not observed**, a **benefit suspension period** may be imposed (unemployment benefit eligibility is delayed, but not reduced).

Settlement agreement — what to check?

Before signing, verify

• [ ] **Severance amount** — adequate? (at least 0.5 salary per year)

• [ ] **Paid leave** — will you be paid through the end?

• [ ] **Work reference** — is a "good" or "very good" reference agreed upon?

• [ ] **Accrued vacation** — is unused vacation time paid out?

• [ ] **Overtime** — are outstanding overtime hours paid?

• [ ] **Non-compete clause** — is there compensation for a restriction?

• [ ] **Severance payment date** — when will severance be paid?

• [ ] **Waiting period** — is the wording worded to avoid a waiting period?

Take your time!

You do **not** have to sign a settlement agreement immediately. Take it home and have an **attorney** review it. The employer must give you **reasonable time** to consider.

Tips for foreigners

1. Know the 3-week deadline — contact an attorney immediately upon receiving termination

2. Legal expense insurance — employment law protection is worthwhile (approximately €15–25/month)

3. Trade union — as a member you receive free legal advice on employment law

4. Don't rush to sign a settlement agreement — always seek advice first

5. Check your residence status — termination can affect your status (work permit, Blue Card EU)
