

October 5 2022

Work during heat waves and other forms of bad weather: what should Austrian employers be aware of?

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Introduction

The heatwave in Europe in Summer 2022 has raised the question in Austria as to whether there is scope for "heat-free" time-off from work and, if so, what the legal prerequisites are.

Currently, there is no legal entitlement to time-off due to excessive heat in Austria. However, certain regulations allow "heat vacations" and specify how the workplace is to be protected from excessive heat.

Work outdoors

Specific regulations apply with respect to construction workers. They allow for work to be interrupted in the event of "bad weather" and still afford workers a portion of their wages.

The Construction Workers' Bad Weather Compensation Act provides the following parameters:

- It is up for the employer to decide whether to stop, continue or resume work during bad weather, including excessive heat. There is no legal right to time off.
- "Bad weather" is defined as any atmospheric influence that impedes work (ie, in addition to heat, also rain, snow or frost).
- "Heat" is defined as temperatures during the summer period (1 May – 31 October) of more than 32.5 degrees Celsius in the shade, according to official measurement data from the Central Institute for Meteorology at the nearest measuring station.
- If this temperature is exceeded for at least three hours per day, the employer may order work to be stopped.
- Employees must perform other suitable work if this is possible. However, this is regularly not possible at a construction site.
- If no other work is possible, the employer pays 60% of the gross wage as bad weather compensation. The wage costs incurred are reimbursed by the Construction Workers' Leave and Severance Pay Fund.
- A quota of 120 hours per employee is available to each employer during the entire six month summer period. This is equivalent to 15 working days for full-time employees.
- The system is financed via a monthly compensation contribution amounting to 1.4% of the gross wage, which is borne equally by the employer and the employee.
- A similar system also exists for other bad weather (eg rain, snow or frost during the winter period (1 November – 30 April)). The quota for this period is even 200 hours, which corresponds to 25 working days.

However, only construction workers benefit from this regulation. Gardeners, forestry workers, harvest workers and road maintenance workers, for example, are not covered.

Work inside

A separate workplace regulation stipulates that if an air conditioning or ventilation system exists, the room temperature in workrooms must not exceed 25 degrees Celsius. Furthermore, air humidity must be between 40% and 70%. However, in the case of low physical stress (eg office work), the room temperature must not be below 19 degrees Celsius, in the case of normal physical stress (eg cleaning staff) not below 18 degrees Celsius and in the case of high physical stress (eg warehouse workers) not below 12 degrees Celsius.

However, the installation of an air conditioning or ventilation system is not mandatory. In the absence of such a system, other measures must be used to achieve a lower temperature, such as external blinds, ventilation at night, table fans or even the relaxation of clothing regulations.

Comment

What all regulations have in common, though, is that they do not create an entitlement to "heat vacations", but rather leave the decision up to the employer. However, the employer must observe the duty of care, so that their decision is not arbitrary.

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