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Labour Tribunal

## Information Sheet Payment claims

**Important notice: In principle, complaints and procedural documents are to be submitted in German. Any documents submitted in another language will not be translated ex officio.**

This information sheet is for general information purposes only and provides an initial overview. No claim is made to completeness.

In order to successfully bring an action for payment, a claim for payment must be due. The due date is based on either a statutory regulation or a contractual agreement.

If the payment has not been made despite being due, it is advisable to first send an out-of-court request.

### Template for a request:

*"To Company ...*

*To whom it may concern,*

*I hereby wish to claim my outstanding wages for the period from ... to ... in the amount of € ... gross/net.*

*Please pay the amount into the following bank account within 10 days:*

*...*

*If I have not received payment from you upon expiry of the given deadline, I will sadly be forced to take legal action against you.*

*Date and signature"*

If your employer still fails to address your open claims despite a written request, the claims can be asserted by way of a default action or complaint proceedings. For purely financial claims arising from the employment relationship, a default action through the Labour Court can be utilised. To assert claims in complaint proceedings, you can use e.g. the forms for actions for payment that are available on the Labour Court websites. Said forms are to be completed, signed and submitted by post to the competent Labour Court.

### **Statute of limitations/Terms of expiry**

The German Civil Code (BGB) provides certain statutes of limitations. It states that claims arising from an employment relationship lapse if they have not been asserted in court within three years. The three-year term begins on the 31 December of the year in which the claim arises. Example: Wage claims from May 2022 lapse on 31 December 2025.

Claims related to labour law often lapse more quickly! Almost all collective wage agreements and some employment contracts contain very short terms of expiry. Some limitation periods also stipulate an additional obligation to assert claims before a court within a further deadline. It is in your own interest to always assert your claims in due form within the limitation periods.

### **Common cases (calculation examples):**

In principle, the amount claimed and its composition must be visible in the complaint. In the following, examples of calculations are given for the most commonly occurring cases.

#### **Pro-rata monthly wage:**

If the employment relationship is terminated within a given month, the monthly wage is to be calculated pro-rata for the respective month.

To do so, the normal monthly wage is divided by the number of working days in said month. The monthly wage is the resulting daily wage multiplied by the number of days worked.

Monthly wage = full monthly wage (gross) : working days in the month x days worked

#### **Holiday compensation:**

If holiday can no longer be granted, either in part or in full, due to the termination of the working relationship, it is to be reimbursed. Holiday compensation can only be claimed once the employment relationship has ended and the holiday can no longer be taken. The gross daily wage of a holiday day is calculated on the basis of the last three monthly wages, divided by the working days in this thirteen-week period. The gross daily wage is then multiplied by the number of outstanding holiday days.

Gross daily wage for 1 holiday day = (3 x gross monthly wage) : (13 x working days per week)

#### **Overtime:**

A precise list of overtime hours worked must be provided in order to bring a complaint. The court has to see the composition of the number of overtime hours and that the overtime was ordered or at least approved by the employer.

If no hourly wage has been agreed, it is calculated by dividing the monthly wage by the working hours in a month. If weekly working hours have been agreed, they have to be multiplied by 4.33, as shown in the formula.

Hourly wage = Gross monthly wage : Working hours per month

**or**

Hourly wage = Gross monthly wage : (4.33 x working hours per week)

**Note: No guarantee is assumed for the accuracy of the translation of the German text.**

Information as of January 2025. Subject to statutory amendments and new regulations.