

The Bureaucracy Reduction Act - Done Right This Time?

INTRODUCTION

Trimming a bloated regulatory regime is seen as a necessary step toward Germany's revival as an economic hub. The Bureaucracy Reduction Act IV (see [Client Newsletter 01/2024](#)) is to do its part, and last Friday Germany's Bundesrat ratified the bill, clearing the way for its swift passage into law. This is why we are providing an overview below of the new rules found in this rather wide-ranging legislative package that are of import to employment law.

DIGITAL EMPLOYMENT CONTRACTS

Concluding employment contracts free from formal requirements was already possible in the past, at least in theory. However, the fact that the written form was required, in particular, under the German Notification Act (*Nachweisgesetz - NachwG*) and for fixed-term employment contracts effectively turned this principle on its head – more so when one considers that typically even “unlimited” employment contracts are in fact limited in time as they at least provide for an end date in the form of the retirement age. These existing barriers are now lifted, at least in part, by allowing the NachwG provisions to be satisfied through the transmission to the employee of proof of significant terms of employment in electronic form (email being sufficient, for example). The recipient must be able to access, save and print the document so transmitted. In addition, the employer must call on the employee to confirm receipt. It should be noted, however, that some industries will not be eligible for these accommodations – namely, those specified in § 2a of the Act to Combat Undeclared Work (*Schwarzarbeitsbekämpfungsgesetz*).

In a departure from the general rules on fixed-term employment relationships, on the other hand, it will be possible in the future to cap an employment relationship at the statutory retirement age in text form as well (see § 41 (2) Social Code VI, new version), so that the previous written-form requirement no longer opposes further digitization.

DISPLAY OBLIGATIONS EASED

With respect to display obligations under the Working Hours Act (*Arbeitszeitgesetz - ArbZG*) and the Youth Employment Protection Act, too, small measures of relief are available (cf. especially § 16 ArbZG, new version): Where collective and works agreements as well as certain laws had to be physically posted in the past, it will suffice in many cases in the future for these documents simply to be made available digitally, e.g. via Intranet.

APPLICATIONS SIMPLIFIED

Similarly, the written-form requirement will be waived for some applications under employment law. This applies to employees' applications for parental leave (see especially §§ 15, 16 of the Federal Paternal Benefit and Parental Leave Act, new version) or (family) caregiver leave (cf. § 3 of the Care Leave Act or § 2a of the Act on Family Caregiving Leave) – being eligible for the text form in the future.

DIGITAL EMPLOYER REFERENCES

Also, it will be possible to send employer references in electronic form (which is different from the text form; § 126a of the Civil Code (*Bürgerliches Gesetzbuch - BGB*)) – if only with the employee's consent. Whether this will deliver palpable relief remains to be seen.

PERSONNEL LEASING IN TEXT FORM

By contrast, the imminent change of § 12 of the Law on Temporary Work (*Arbeitnehmerüberlassungsgesetz - AÜG*) appears to be very practical: In cases of personnel leasing, the temporary work contract between the supplier and its client may in the future be executed in text form.

CONCLUSION

When compared to the draft bill that came under withering criticism, this bill represents an improvement. But it is no silver bullet. For this reason, this can and must only be the first step in the climb toward debureaucratization.

Please do not hesitate to contact us if you have questions concerning this topic. If you would like to be included on our mailing list of the subscribers to our free newsletter, please send us a brief **email** with your request.

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