

10 pitfalls in the preparation of job reference letters in Germany

A job reference letter is one of the last documents which is provided to employees in Germany upon termination of employment. The formulations in the reference letters and the given grade are often the subject of settlement negotiations in dismissal protection proceedings. A job reference letter, its formulations as well as the process to set-up such reference letter is quite unique and is derived from outdated German statutory law. The following 10 pitfalls shall help foreign companies to know the most common pitfalls associated therewith.

1 Written form requirement / Signatory

Although it may seem old-fashioned, the reference letter has to be signed by hand (wet-ink signature). German statutory law does not provide for any exceptions from this rule, so that an electronic signature is not possible.

The reference letter should preferably be signed by the manager or immediate supervisor of the relevant employee, as they are in the best position to provide a comprehensive evaluation of the employee's professional and personal qualities. However, it is also permissible for the legal representative of the employing company to sign the reference letter.

by case law. Employers know how to interpret and evaluate reference letters during the job application and interview process.

3 Benevolent style

Due to case law imposing that reference letters are expected to be benevolent (*wohlwollend*), German reference letters may sound awkward. In general, reference letters may not unjustifiably impede the employee's future job opportunities and should, therefore, be fair and avoid any unnecessary negative impact on the employee's prospects for future employment.

2 Special language used in general

It is worth noting that the language used within reference letters in Germany is quite unique. Such language may create the impression that the letter is overly positive and does not accurately reflect the actual performance of the employee, particularly if the employee's performance was subpar. However, the rather positive language is a common phenomenon and established standard in Germany, which has been imposed

4 Truthful

The aforementioned boundaries are naturally limited by the obligation to state the truth. Notwithstanding the above, the employer cannot include incorrect and false statements within the reference letter. This often leads to employees him-/herself preparing the list of tasks accomplished during the time of employment, which is then frequently discussed and aligned with the employee's supervisor.

5 (Interim) reference letter

In Germany, both full-time and part-time employees are entitled to receive a comprehensive and qualified reference letter (*qualifiziertes Zeugnis*) upon the termination of their employment. Employees can also request an interim reference letter (*Zwischenzeugnis*) in certain circumstances, including the employer's announcement to terminate the employment at a later date, a change in job position, work area, supervisor, or when a business transfer is being proposed.

the employer is required to provide a thorough explanation as to why such grade was given. To avoid any issues, it has become common practice that almost every employee, regardless of their performance, receive a reference letter with a grade being at least "good" (score: 2).

6 Hard copy in unbent envelope

Reference letters must be provided in a physical format, printed on the employer's official letterhead, labeled as "Zeugnis" (Reference) and should be provided to the employee unstapled in an unbent envelope. Reference letters must adhere to certain format requirements, including being typed, dated, and signed by the employer. It is crucial that the reference letter is free from any defects, such as stains, crossing-outs, corrections, accentuations, or underlining.

9 Date

An (interim) reference letter always has to be dated. Generally, the final reference must be issued on the date of termination (last day of the employment relationship).

10 Reason for leaving the company/closing formula

On occasion, an employee may request that the reasons for their departure to be included within the reference letter. While some employers may choose to add closing words expressing gratitude for the employee's contributions and well wishes for their future endeavours, it is important to note that employees cannot compel employers to include such closing words. The decision to include closing remarks remains at the sole discretion of the employer.

7 Possible claims

Employees have the right to seek corrections and/or damages if their employer provides an inaccurate, incomplete, or delayed reference letter, or if the employer refuses to provide one altogether. In some cases, employees may even take legal action against former employers relating to the issuance of a defective reference letter. In case of the occurrence of such legal proceedings, it should be noted that such legal proceedings can be challenging.

8 Grades

Employees are not entitled to receive a specific grade within their reference letter. However, grading is common practice in Germany. It is generally expected that the overall grade in the reference letter is not lower than satisfactory (score: 3). In the event that the grade is lower,

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