

# Kritische Würdigung Des Abfindungsanspruchs Bei Betriebsbedingter Kündigung Nach § 1a KSchG: Darstellung Einschließlich Eines Internationalen Vergleich - Hanna Egli

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Um die 2 Mio. arbeitgeberseitige Kündigungen wurden im Jahr 2001 ausgesprochen, hiervon 1,2 - 1,3 Mio. betriebsbedingte. Der Anteil der Klagen gegen diese Art der Kündigungen liegt bei 9,5%. Diese Zahlen belegen die erhebliche Bedeutung des Kündigungsschutzrechtes für die Praxis. Die Mehrzahl der in Deutschland ausgesprochenen Kündigungen soll nach Korinth mit dringenden betrieblichen Erfordernissen begründet sein. Der Gesetzgeber hat daher zum 01.01.2004 Änderungen in diesem Bereich vorgenommen, welche die betriebsbedingte Kündigung erleichtern sollen. Dies hatte Bundeskanzler Gerhard Schröder in seiner Regierungserklärung vom 14.03.2003 in der 'Agenda 2010' angekündigt. Im Falle solcher Kündigungen sollte demnach der Arbeitnehmer zwischen der Klage auf Weiterbeschäftigung und einer gesetzlich definierten und festgelegten Abfindungsregelung wählen können. Die Umsetzung erfolgte durch die Ergänzung des § 1a KSchG. Die neue Regelung gibt den Vertragsparteien einen Mechanismus an die Hand, mit dem ohne Einschaltung eines Arbeitsgerichts und ohne Aushandeln von individuellen Vereinbarungen eine Beendigung des Arbeitsverhältnisses gegen Abfindung erreicht werden kann. Allerdings steht der neu eingeführte § 1a KSchG schon wieder stark in der Kritik. Es heißt, die 'Bedeutung des neuen Abfindungsanspruchs sei nur unter dem Mikroskop erkennbar'.  
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