Native Teams

Germany Knowledgebase

Labour laws

Legal framework

Germany's Basic Law mandates principles such as non-discrimination and collective bargaining in employment. Employment law, influenced by EU regulations, is shaped by statutes like the Civil Code and Social Security Code. The Basic Law, Germany's constitution, outlines key principles relevant to employment law, including non-discrimination, equality, freedom of association, and collective bargaining. While certain areas of law are consolidated into codes like the Civil Code (BGB) for employment contracts and the Social Security Code (Sozialgesetzbuch) for sickness benefits, employment legislation itself consists of numerous individual statutes, often influenced by EU regulations.

Federal Structure: Germany consists of 16 states (Länder), with employment legislation primarily governed at the federal level, though states have influence in areas like educational leave and public holidays.

Legal Framework: The Basic Law (Grundgesetz) establishes principles such as non-discrimination, equality, freedom of association, and collective bargaining. Key legal codes include the Civil Code (Bürgerliches Gesetzbuch, BGB) for employment contracts and the Social Security Code (Sozialgesetzbuch) for matters like sickness benefits.

Legal Form: Employment legislation comprises numerous individual statutes, often influenced by EU law, rather than being consolidated into codes. Specialist labour courts interpret these laws through case law.

Collective Agreements: Pay and conditions for most German employees are determined by collective agreements signed at the industry level. These agreements can deviate from statutory provisions in some cases.

Other Sources of Law: Works agreements at the establishment level and individual employment contracts are also important sources of law. In industries covered by collective agreements, terms and conditions cannot be less favorable to employees than those stipulated in the agreement, unless permitted by the collective agreement itself. List of collective agreements commonly applied in Germany:

- Industry-level collective agreements:

1. Framework Collective Agreement: Addresses long-term aspects like pay supplements, bonuses, annual leave, working time, notice periods, and severance payments.
2. Pay Rates Agreement: Regularly updated agreement focusing on pay rates. List of collective agreements commonly applied in Germany:

- Company-level collective agreements: Often found in larger firms, covering various aspects of employment conditions and terms.

- Government-approved industry-level collective agreements: Made generally binding upon all employees and employers in the industry, including non-members of signatory organisations, upon request.

Individual establishments typically adhere to one collective agreement. In case of conflicting agreements from different trade unions, the agreement signed by the union with the majority of members in the establishment prevails, unless it fails to sufficiently consider the interests of minority unions' members, in which case other agreements may also apply to them.

Employment contract

Types of employment contract

In Germany's private sector, employment contracts typically fall into two categories: indefinite-term and fixed-term contracts. Additionally, contracts may specify either full-time or part-time employment. Indefinite-term contracts, which are the standard, provide permanent employment, while fixed-term contracts are also allowed.

If an employment contract does not specify the period for which it was concluded, it shall be considered to have been concluded for an indefinite period.

The public Pension Insurance Federation offers determinations on dependent employment versus self-employment for social security.

Contracts can be written, oral, or implied, with fixed-term contracts required to be in writing. However, fixed-term contracts must be documented in writing. Employers are required to furnish employees with a written statement outlining the essential conditions of the employment relationship unless these conditions are clearly stated in the contract.

Employment contracts often include standard provisions, which are typically formulated unilaterally by the employer and are found in contracts for multiple employees. These standard terms, considered "standard business terms" have specific legal considerations. Any ambiguities in standard terms are resolved against the employer.

In employment law, there exists a principle where if the duration or purpose of an employment contract ends, yet the employment continues with the knowledge of the employer and without immediate objection, it is deemed to be extended indefinitely.

This legal provision serves to ensure continuity and stability for employees, especially in situations where the initial terms of the contract have expired but the working relationship persists. It underscores the importance of clear communication between employers and employees regarding the status and duration of their employment arrangements, fostering transparency and fairness in the workplace.

Content of an employment contract

Under the Act on Written Evidence of Essential Employment Conditions (Nachweisgesetz), employers must document essential employment terms in writing and provide this documentation to employees in a signed format. Each employment contract must contain provisions on:

1. The names and addresses of the employer and employee
2. The date when employment started
3. In the case of fixed-term employment relationships, the end date or expected duration
4. The place of work or, if the employee will not work in a single location, a statement that the employee may be employed at various places or is free to choose their place of work
5. A brief description/specification of the work
6. The duration of any agreed probationary period
7. The composition and amount of the remuneration, including overtime payments, bonuses, allowances, special payments and any other components (each component must be indicated separately) and the due date and method of payment
8. The agreed working time, rest breaks and rest periods plus, where applicable, the details of shift-working arrangements
9. If the employee performs “on-demand work”: an agreement that the employee will work only when required; the minimum paid working hours; the time frame - in terms of reference days and weeks - within which the employee may be required to work; and the prior notice that the employer must give the employee when calling them into work
10. Where agreed, the possibility of the employee being required to work overtime and the condition
11. The amount of paid annual leave
12. Any entitlement to training provided by the employer
13. If the employer provides an occupational pension through a pension provider, the provider’s name and address (this requirement does not apply if the provider is obliged to provide this information).
14. The procedure for terminating the employment relationship
15. A general reference to the collective agreements and works agreements applicable to the employment relationship.

No individual is required to sign a contract in a language they do not comprehend. Every employee has the right to request sufficient time to translate an agreement before providing their signature. If the work abroad involves temporary posting to another EU member state, the written statement must include further information, including the remuneration the employee is entitled to under the law of that member state (this information may take the form of a reference to collective agreements and works agreements).

If the employee has been provided with a written employment contract containing all the information that must be provided in a written statement, the employer need not provide a written statement.

If there is any change in the employment conditions referred to in the written statement (except changes to the applicable statutory provisions, collective agreements or works agreements), the employer must notify the employee in writing.

Oral, written, or electronic employment contracts

Employment contracts are typically written but can also be oral or implied by conduct. However, fixed-term contracts must be in writing. Additionally, employers must provide employees with a written statement of essential conditions unless already outlined in a contract.

Employment contracts often include standard provisions created by the employer, known as "standard business terms."

These terms become part of the contract if the employer explicitly refers to them during contract formation and gives the employee a chance to review them. However, individually agreed terms take precedence over standard terms. If standard terms are unusually restrictive, they may not be considered part of the contract. In case of doubt, interpretation of standard terms favors the employee. If an employment contract is not agreed upon in writing, the employer must provide the employee with a written confirmation of the contract before work commences. Failure to provide written confirmation results in the employment contract being deemed indefinite.

Bilingual contracts in German and English are permissible.

E-signature:

In Germany, electronic signatures play a significant role in the execution of employment contracts, offering convenience, efficiency, and legal validity. The use of electronic signatures on employment contracts is governed by the Electronic Signature Act (SigG) and is subject to the regulations outlined in the European Union's eIDAS Regulation.

Employers and employees can opt to sign employment contracts electronically using various types of electronic signatures, including basic, advanced, and qualified electronic signatures (QES). While basic and advanced electronic signatures offer varying degrees of validity and security, a qualified electronic signature (QES) is considered the highest level of electronic signature under EU law and is equivalent to a handwritten signature in terms of legal validity.

To qualify as a QES, the electronic signature must meet stringent requirements, including being created by a qualified electronic signature creation device and based on a qualified certificate issued

by a trusted provider. QESs provide assurance of the signer's identity and the integrity of the signed document, making them widely accepted and legally recognized in employment contracts.

Probationary period

The probationary period is limited to a maximum of six months. If such a period is agreed upon, the employment can be terminated with a two-week notice.
In indefinite-term employment contracts in Germany, a probationary period is often agreed upon by both the employer and the employee as a means to assess the suitability of the employment relationship. This probationary period is regulated by the Civil Code, which stipulates that it cannot extend beyond six months.

During the probationary period, either the employer or the employee has the right to terminate the contract with a notice period of two weeks, without the obligation to provide a specific reason for termination. This allows both parties the flexibility to evaluate the working relationship and make informed decisions about its continuation without being bound by long notice periods or detailed justifications for termination.

The probationary period serves as a trial period during which the employer can assess the employee's performance, suitability for the role, and compatibility with the company culture. Similarly, the employee has the opportunity to evaluate the job role, work environment, and organisational fit.

In Germany, utilizing a fixed-term agreement to serve as a trial period for evaluating the suitability of an employment arrangement is considered a legitimate justification. While there's no strict limit on the duration of such contracts, employees typically acquire protection against unjust dismissal after completing six months of service, making fixed-term contracts with probationary periods exceeding this duration less favorable.

If a fixed-term contract, excluding those designed for probationary purposes, includes a probationary period, it should be commensurate with the anticipated length of the contract and the nature of the job.

Under German law, the notice period during the probationary period is typically set at two weeks. It's crucial to ensure that the notice is delivered to the employee either in person or via registered mail, in the form of a hand-signed physical document, to comply with legal requirements.

Key requirements

Working hours

There are two fundamental categories that encompass various forms of employment engagement in terms of working time: full-time work and part-time work. The primary regulation governing working hours in Germany is the Working Time Act (Arbeitszeitgesetz).

The standard working week in Germany typically ranges from 36 to 40 hours, with a maximum weekly working time usually limited to 48 hours for individuals engaged in a six-day work schedule.

In Germany, individuals working fewer than 30 hours per week are classified as part-time employees. After completing six months of service with a company that employs more than 15 individuals, employees have the legal entitlement to request a reduction in their weekly working hours.

Working hours can be distributed in equal or unequal duration by days, weeks, or months. The schedule must be defined by the regulation, collective agreement, an agreement between the worker's council and the employer, rulebook, employment contract, or written decision of the employer. Typically, the maximum weekly working time is 48 hours for a six-day week and 40 hours for a five-day week. However, if daily hours are averaged over a reference period, the maximum weekly hours can extend to 60 hours for a six-day week and 50 hours for a five-day week.

Overtime is mainly governed by collective agreements or employment contracts, compensating extra hours with time off or pay supplements. Employees cannot be compelled to work overtime except in emergencies, usually requiring works council approval.

Employers can deviate from maximum working hour regulations in emergencies, critical work situations, or specific industries like healthcare, research, and teaching, subject to certain conditions and authorities' approvals.

Workers under 18 have stricter limitations on working hours, generally not exceeding eight hours per day or 40 hours per week, with exceptions for specific sectors and circumstances.

Decisions regarding daily working hours, breaks, and temporary changes in working hours require works council agreement.

Employers are obligated to comprehensively record employees' working hours, with forthcoming legislation expected to clarify these obligations.

Breaks and night work

Employees in Germany are entitled to a break after six consecutive hours of work, lasting 30 minutes for daily shifts between six to nine hours and 45 minutes for shifts exceeding nine hours. The Working Time Act mandates that employees cannot work for more than six consecutive hours without a rest break.

These breaks must be at least 30 minutes for daily working times between six to nine hours, and 45 minutes for shifts exceeding nine hours. Breaks can be split into intervals of 15 minutes each.

Employees must have an uninterrupted daily rest period of at least 11 hours, with exceptions granted in specific sectors or under collective agreements. Employees generally must have one continuous day off each week, preferably on Sunday, unless operational necessities prevent it.

Night shifts, as per the Working Time Act, encompass a period of at least two hours between 11 pm and 6 am (or 10 pm and 5 am for bakeries). Alternative definitions may be established through collective agreements.

A night worker is an employee who completes a minimum of 48-night shifts annually or routinely works nights as part of a rotating shift pattern.

Night shifts are typically limited to eight hours, extendable to 10 hours under certain conditions outlined in collective agreements. Employers may deviate from statutory regulations on night work hours.

Compensation for night work, including pay supplements and compensatory time off, is usually determined by collective agreements. Employers must offer regular medical check-ups for night workers and accommodate requests for daytime shifts under specific circumstances.

Certain sectors are exempt from the general prohibition of Sunday work, with authorization required from public authorities. Employees engaged in permitted Sunday work must receive compensatory time off. The rules concerning rest breaks, weekly rest periods, and Sunday work may be adjusted under collective agreements or works agreements.

For employees under 18 years old, specific regulations apply. They must not work for more than four and a half consecutive hours without a break, with minimum break durations depending on the length of their daily working time. Under-18s are entitled to a minimum 12-hour daily rest period and must receive two rest days a week, ideally consecutive. Saturday work is generally prohibited for under-18s, with exceptions in certain sectors. Similarly, under-18s are subject to restrictions on Sunday work, with compensatory rest days mandated for Sunday shifts.

Employees under 18 generally cannot work between 8 pm and 6 am, with exceptions for certain industries and individuals aged 16 or 17.

Annual leave

Employees are entitled to four weeks (20 days) of paid vacation yearly after six months of employment, which cannot be carried over past June 30th of the following year. All employees are entitled under the Federal Leave Act (Bundesurlaubsgesetz) to paid annual leave of 24 working days per calendar year for those working six days a week and 20 working days for those working five days a week (the entitlement is thus four weeks' leave).

The full entitlement applies after six months of service with the employer. During this six-month "waiting period", the employee is entitled to one-twelfth of the annual leave entitlement for each month of employment completed.

During annual leave, the employee is entitled to holiday pay from the employer. This is calculated as the employee's average remuneration over the previous 13 weeks, excluding overtime pay.

If any holiday entitlement still remains at the end of the employment, employees can claim financial compensation for the days not taken.

During annual leave, the employee is entitled to holiday pay from the employer. This is calculated as the employee's average remuneration over the previous 13 weeks, excluding overtime pay.

In principle, employees must take their full annual leave entitlement in a single block unless urgent business or personal reasons make it necessary to split it into several periods. In any event, employees must generally have one uninterrupted period of leave each year of at least 12 working days.

Annual leave must in principle be taken in the calendar year in which the employee accrues entitlement to the leave. Entitlement can generally be carried over to the following year only if justified by a business or personal reasons - in such cases, the leave must be taken in the first three months of the following year. However, employees are entitled to carry over leave entitlement accrued during the first six months of employment. Further, entitlement accrues while an employee is on long-term sickness absence, even if the employee cannot take the leave in the relevant calendar year, while any accrued leave not taken at the point when an employee goes on parental leave may be taken after the employee returns to work.

When employment ends, the employer must pay the employee for any accrued annual leave entitlement that the employee has not taken.

Collective agreements can deviate from the statutory rules on annual leave set out above, though they must in all cases provide that employees are entitled to four weeks' paid annual leave. In practice, agreements often provide for five or six weeks' annual leave.

The rules outlined above apply to adult employees. The Young Workers' Protection Act provides for minimum paid annual leave of:

- 30 days for those under the age of 16
- 27 days for those under the age of 17
- 25 days for those under the age of 18.

Public holidays

In Germany, there are eight national public holidays observed across the country. The public holiday landscape in Germany is defined by German Unity Day on October 3rd, which stands as the sole nationwide holiday, while the remaining holidays are established independently by each of the 16 federal states.

The official holidays for 2025 for Germany are listed below.

National Holidays (Observed Across All States):

- 1 January (Wednesday) – New Year's Day (Neujahrstag)
- 18 April (Friday) – Good Friday (Karfreitag)
- 21 April (Monday) – Easter Monday (Ostermontag)
- 1 May (Thursday) – Labour Day (Tag der Arbeit)
- 29 May (Thursday) – Ascension Day (Christi Himmelfahrt)
- 9 June (Monday) – Whit Monday (Pfingstmontag)
- 3 October (Friday) – German Unity Day (Tag der Deutschen Einheit)
- 25 December (Thursday) – Christmas Day (1. Weihnachtstag)
- 26 December (Friday) – Second Day of Christmas (2. Weihnachtstag)

Note that public holidays can vary by state, and it's advisable to check with local authorities or official state websites

Employees are typically not allowed to work on public holidays, with exceptions similar to those for Sunday work.

If an employee does work on a public holiday, they must be given a compensatory day off within an eight-week period. This timeframe can vary if specified by a collective agreement or works agreement.

Under-18s generally cannot work on public holidays or after 2pm on 24 and 31 December, except in sectors where Sunday work is allowed. If they do work on a public holiday, they must be given a rest day within the same week or the following one.

Salary

Remuneration, determined by the contract and often referencing collective agreements, is crucial.

Employers must ensure payment at least equal to the National Minimum Wage (NMW), with industry-level agreements often setting higher minimum rates. Transactions falling below two-thirds of the usual rate, as defined by collective agreements, are considered unethical and prohibited by the Civil Code.

NMW, equal pay, payment of wages, and deductions are governed by statute, while other aspects are primarily addressed by collective agreements, works agreements, and employment contracts.

Employers commonly offer bonuses such as annual "13th month" or Christmas bonuses and holiday bonuses. Regular payment establishes contractual entitlement, subject to withdrawal stipulations.

Minimum wage in Germany is €12.82 per hour, pre-tax since 1 January 2025.

Works councils hold co-determination rights regarding wage payment intervals, dates, and methods, as well as the structure of remuneration and rates for performance-related payments.

The Pay Transparency Act enforces equal pay for male and female employees performing equal work or work of equal value, prohibiting all forms of sex-based discrimination in remuneration.

Equal work pertains to identical or similar activities performed at different or the same workplaces, while work of equal value considers factors like job type, training requirements, and working conditions to determine comparability.

Employers must ensure that their remuneration systems, both overall and in individual components, are free from sex-based discrimination.

Employees in companies with over 200 staff have the right to request information regarding remuneration criteria and procedures, as well as median remuneration data for comparable roles.

The Civil Code mandates wage calculation and payment in Euros, typically at the end of the pay period. Most employees receive monthly payments via bank transfer. While pay is generally monetary, employers and employees can agree to include payment in kind if beneficial to the employee or inherent to the job. However, payment in kind must not exceed the attachable amount of the employee's remuneration (see Deductions from Pay).

Failure to pay wages promptly entitles the employee to pursue legal action to recover the due amount. Additionally, under consumer protection laws on late payments, employers are obliged to pay lump-sum compensation of €40 to the employee for each instance of late payment.

According to the Trade, Commerce, and Industry Regulation (Gewerbeordnung, GewO), employers must provide employees with a written statement accompanying each wage payment. This statement should include details of the pay period and the breakdown of wages, including the basic amount, pay supplements, bonuses, reimbursements, deductions, and advance payments.

The Federal Ministry of Labour and Social Affairs has issued a standard pay certificate (Entgeltbescheinigung) based on the GewO's requirements. This certificate, used for social security and related purposes, serves as a model for payslips and includes comprehensive information about the employer and employee, employment dates, social security and tax details, gross pay components, deductions, and net pay.

Sick leave

Temporary incapacity for work in Germany refers to the inability to fulfill work duties due to illness, injury, or other hindrances specified in the employment contract or relevant agreements. To validate such absence, employers may request an 'Arbeitsunfähigkeitsbescheinigung' (certificate of unfitness for work) commonly referred to as 'AU' or 'Krankschreibung' (sick note), issued by a medical professional.

The Entgeltfortzahlungsgesetz grants employees paid sick leave entitlements. Upon falling ill or getting injured, employees must promptly notify their employer, specifying the expected duration of absence. If the absence exceeds three days, the employee must consult a doctor, whose diagnosis is automatically relayed to the employer if covered by statutory healthcare.

Sick pay:

For the initial six weeks of sick leave, employees with four weeks' service receive full regular pay. Subsequent illnesses or injuries entitle employees to another six weeks of paid sick leave, unless it's a recurring ailment, in which case, a new period of paid leave is granted after six or 12 months.

After the initial six weeks, employer-paid sick leave ends, and employees may receive sickness benefits from their healthcare fund, amounting to 70% of gross pay, capped at €116.88 daily, for up to 78 weeks within three years for the same condition.

In cases where an employee experiences multiple instances of illness within a calendar year, they may still be entitled to continued payment for each occurrence, even beyond the six-week period. However, this entitlement is subject to limitation if the employee remains sick for the same reason for longer than six weeks.

Upon the expiration of continued payment by the employer, employees are eligible for sickness allowances provided by the statutory health insurance. These allowances typically amount to 70% of the employee's regular remuneration and are payable for a maximum period of 78 weeks.

Furthermore, in addition to financial support, state health insurance covers payments in kind, such as necessary medical care, medication, remedies, and aids, for cases of longer-term unfitness for work. This comprehensive support system ensures that employees are adequately cared for during periods of illness, safeguarding their well-being and financial stability.

Parental leave

The Parental Benefits and Parental Leave Act (Elternzeit) in Germany allows working parents, including adoptive parents, to take up to three years of parental leave per child. As per the Parental Benefits and Parental Leave Act (Bundeselterngeld- und Elternzeitgesetz), biological and adoptive working parents are granted the right to parental leave (Elternzeit) of up to three years per child, excluding the postnatal maternity leave portion for mothers (refer to Maternity Leave). This leave can be utilized entirely before the child turns three or extended over a period of up to 24 months between the child's third and eighth birthdays.

Employees have the choice to take parental leave in one continuous period or in up to three shorter intervals. They must notify their employer seven weeks in advance for leave before the child's third birthday and 13 weeks in advance for leave between the child's third and eighth birthday.

Requests for a third period of leave between the child's third and eighth birthday may be refused by the employer for urgent operational reasons. Any changes to planned parental leave duration require the employer's consent.

Part-time parental leave is feasible for eligible employees, who can reduce their working hours to between 15 and 32 hours a week for a minimum of two months. This option is available if the employee has at least six months of service, the employer has more than 15 employees, and there are no urgent operational reasons prohibiting the reduction.

Employees can request a reduction or redistribution of their working hours, and employers must respond within four weeks, providing reasons for any rejection.
Parental allowance in Germany provides financial support to parents during the critical early years of child-rearing, with various options and supplements available based on individual circumstances and income levels. The program aims to ensure adequate care for children while offering flexibility and support to parents, including those facing unique challenges such as premature births.

Parental allowance eligibility:

To qualify for parental allowance, parents must:

- Personally care for and raise their child.
- Reside in the same household as the child.
- Be residing in Germany.
- Either not work at all or work no more than 32 hours per week.
- Additional requirements may apply for foreign parents.

Parental allowance can be received for:

- Biological children.
- Adopted children, including those in the process of adoption.
- Grandchildren, great-grandchildren, nieces, nephews, siblings, under specific circumstances (e.g., parental disability, serious illness, or death).

Parental allowance amounts:

- Basic Parental Allowance: Ranges from €300 to €1,800 per month.
- Parental Allowance Plus: Ranges from €150 to €900 per month.

Supplements and minimum amounts:

- Additional supplements are available for multiple children, such as twins or older siblings.
- Minimum amounts of €300 for basic parental allowance and €150 for parental allowance plus are provided, even with no previous income.

Calculation of parental allowance:

- Basic parental allowance is typically 65% of the net income before childbirth, with a maximum cap.
- Low earners may receive higher percentages based on pre-birth income levels.
- Parental allowance plus follows a similar calculation but is limited to half the basic parental allowance amount.

Duration and flexibility:

- Basic parental allowance can be received for up to 12 months, with an additional two months for each partner.

- Parental allowance plus extends for twice the duration of basic parental allowance.
- Partnership bonus allows up to four additional months per parent if both work part-time.
- Flexibility in distributing allowance months between parents.

Additional months for premature births:

- Additional months of basic parental allowance granted based on the child's premature birth date.
- Up to four extra months provided for babies born significantly before the due date.

Termination

Methods of employment termination

Under German employment law, termination of the employment relationship can occur through mutual agreement, expiration of a fixed-term contract, or notice from either party. In Germany, the employer's authority to terminate an employee is primarily regulated by the German Civil Code (Bürgerliches Gesetzbuch or "BGB") and the German Act Against Unfair Dismissal (Kündigungsschutzgesetz or "KSchG"). These legal frameworks establish stringent criteria for the unilateral termination of employment contracts by employers, with particular emphasis on the application of the KSchG, which significantly influences employee dismissals.

The KSchG comes into effect under two conditions: when an employer regularly employs more than 10 individuals, and when an employee has completed six consecutive months of service within the same company or business establishment. Under the KSchG, a termination notice is deemed legally valid only if it meets the criterion of being "socially justified."

According to section one of the KSchG, termination is considered justified if it is based on factors relating to either the employee's personal circumstances or conduct or if there are compelling operational requirements that render the employee's continued employment infeasible within the establishment.

Termination of Employment under German Law

Termination of employment in Germany can occur by mutual consent, expiration of a fixed-term contract, or notice from either party.
Protection against dismissal is provided by the Dismissal Protection Act (Kündigungsschutzgesetz), with provisions applying to establishments with more than 10 employees and those who have completed six months of service.
Dismissal may be deemed invalid if it is socially unjustified, either due to personal reasons, conduct-related reasons, or compelling operational requirements that necessitate the termination.

Reasons for Dismissal

- Personal reasons include incapacity to perform duties due to illness or loss of a required permit
- Conduct-related reasons arise from breaches of employment contract obligations, typically following warnings for similar breaches
- Operational reasons may lead to dismissal due to internal reorganisation or external economic factors but must follow a "social selection" process

The Civil Code permits termination without notice for compelling reasons, such as criminal actions, fighting, or persistent refusal to work. Employers must terminate within two weeks of becoming aware of relevant facts and provide written reasons upon request.

Collective Dismissals

Collective dismissals involve termination of employment within a specified period, with obligations to inform and consult the works council and the Federal Employment Agency.
Special procedures apply to collective dismissals resulting from organisational changes in larger establishments. Dismissal procedures and payments

- Dismissals must be in writing and signed by the employer, with consultation required if a works council is present
- Employees have no statutory entitlement to severance payments, but these may be negotiated in collective agreements or employment contracts
- Compensation may be offered to employees in return for not contesting the dismissal in court
- Employees are entitled to a written reference upon termination, stating the nature and duration of employment, and performance details upon request

Special protection against dismissal

- Female employees are protected from dismissal during pregnancy and for four months after childbirth, except in certain cases with approval from relevant authorities
- Similar protection extends to employees on parental or care leave
- Members of works councils, candidates for election, and employee representatives can only be dismissed without notice for compelling reasons and with consent from the works council or court order
- Dismissal of severely disabled employees after six months' service requires approval from relevant authorities
- Apprentices can only be dismissed summarily for compelling reasons after their probationary period ends

Termination by the employee

- An employee can resign at any time by providing written notice, signed and in writing, not in electronic format
- The Civil Code allows an employee to terminate without notice for compelling reasons, such as repeated late payment of wages or sexual harassment

Termination by mutual agreement

The collaborative approach to terminating employment through mutual agreement reflects a balanced resolution between employers and employees

Employers and employees may opt to conclude the employment relationship amicably through a separation agreement. This legally binding document, delineated in writing and signed by both parties, outlines the terms of departure, including the cessation of employment and agreed-upon financial compensations

The separation agreement provides employees with written assurances regarding the termination process, safeguarding against coercion and ensuring transparency in the negotiation process

Ordinary dismissal by the employer

The employer has the right to end the employment contract by providing notice as agreed upon, known as ordinary dismissal, provided there is a valid reason. Under German labour law, the termination of an employment contract is subject to specific grounds outlined in the German Civil Code (BGB) and the German Act Against Unfair Dismissal (KSchG). These regulations set stringent criteria for employers seeking to terminate an employment relationship, particularly through the application of the KSchG, which imposes strict requirements on dismissals.

Reasons for termination can be categorized into three main groups: reasons relating to the person, reasons relating to conduct, and reasons relating to changes in business operations, also known as redundancy.

Reasons relating to the person typically involve issues such as frequent or prolonged illness affecting job performance, inadequate qualifications, loss of necessary permissions, or legal issues like imprisonment or addiction problems.

Reasons relating to conduct encompass behaviours such as persistent refusal to work, insubordination, making offensive remarks against the employer or colleagues, unauthorized use of company resources, engaging in activities conflicting with the employer's interests, or committing criminal acts against the employer or its clients.

Changes in business operations leading to redundancy may occur when a position becomes obsolete due to organisational changes or restructuring. In such cases, termination may be warranted if there are no alternative employment opportunities available within the company and if no other employees, who require less social protection, have been selected for dismissal.
Redundancy:

Collective dismissals refer to the simultaneous termination of employment by an employer within a 30-day period, with specific criteria based on the size of the establishment. For instance, in establishments with 21–59 employees, more than five employees can be terminated, while in

establishments with 60–499 employees, 10% of the workforce or more than 25 employees can be let go. For establishments with at least 500 employees, the threshold is at least 30 employees.

The reasons for collective dismissals can vary, but they must adhere to certain guidelines.

Employers planning such dismissals must promptly inform the works council about the rationale behind the terminations, the number and job categories of affected employees, the usual workforce composition, the timeframe for the dismissals, and the criteria for employee selection and severance payments.

After consulting with the works council, or at least two weeks following notification if the council does not respond, the employer must inform the Federal Employment Agency (BA) with similar details.

Employees cannot receive dismissal notices until at least 30 days after the BA notification, unless the BA agrees to an earlier date, which can be extended to two months in certain cases.

In establishments with over 20 employees, additional obligations apply when collective dismissals are due to organisational changes, especially for operational reasons.

Notice period and challenging the dismissal

Notice periods play a crucial role in the termination of employment contracts. In cases of termination by the employer, these notice periods progressively lengthen with the employee's years of service. In German employment law, notice periods play a crucial role in the termination of employment contracts. In cases of termination by the employer, these notice periods progressively lengthen with the employee's years of service, ranging from one month to the end of a calendar month, up to seven months after 20 years of service.

In accordance with the Civil Code, the minimum notice period for terminating an employment contract, regardless of whether it is initiated by the employer or the employee, is set at four weeks following any probationary period. This notice period must extend until either the 15th day or the end of a calendar month.

The statutory notice periods are structured as follows, contingent upon the duration of employment:

- Less than two years: four weeks until the 15th or the conclusion of a calendar month
- two years: one month until the conclusion of a calendar month
- five years: two months until the conclusion of a calendar month
- eight years: three months until the conclusion of a calendar month
- 10 years: four months until the conclusion of a calendar month
- 12 years: five months until the conclusion of a calendar month
- 15 years: six months until the conclusion of a calendar month
- 20 years: seven months until the conclusion of a calendar month

Payment in lieu of the statutory notice period is prohibited. However, collective agreements have the authority to establish notice periods that deviate from the statutory minimum.

Employment contracts can specify longer notice periods, while short-term contracts of less than three months may define shorter notice periods. Moreover, employers with 20 or fewer employees have the flexibility to negotiate a notice period of four weeks, regardless of an employee's length of service. However, in all cases, the notice period for resignation must not exceed that for dismissal.

During the notice period, the employer is obligated to grant the employee reasonable time off upon request to facilitate the search for new employment opportunities. Challenging Dismissal:

The termination of an employment relationship in Germany can occur without observing a notice period if compelling reasons exist, considering the circumstances and interests of both parties. Extraordinary termination, reserved for exceptional cases like refusal to work or criminal offenses, requires significant grounds. Regulations governing dismissal challenges are outlined in the German Works Constitution Act (Betriebsverfassungsgesetz - BetrVG) and the German Labour Court Act (Arbeitsgerichtsgesetz - ArbGG).

Under the BetrVG, employees have protections against unjustified dismissal, with the right to challenge it in court. Procedures for challenging dismissal through ordinary means, such as the timeline for filing a complaint and requirements for the complaint, are specified. The works council must be consulted before any dismissal, with the employer obligated to inform them of the reasons. Dismissals made without consulting the works council are considered invalid.

The ArbGG elaborates on labour court jurisdiction and procedures, including filing complaints for protection against dismissal under extraordinary circumstances.

Rights and obligations of unemployed persons

Unemployment insurance is a compulsory insurance with the Federal Labour Office. In Germany, individuals who become unemployed are subject to specific legal obligations and entitlements governed by national legislation. Understanding these provisions is crucial for those seeking support during periods of unemployment. Here's an overview of the legal framework concerning unemployment benefits and basic income support in Germany:

Reporting obligations:

Upon becoming unemployed, individuals must personally report to the employment service of the country where they last worked.
For cross-border workers, special provisions apply, necessitating compliance with regulations in both the country of residence and the country of employment.
Reporting obligations include notifying the responsible Employment Agency at least three months before the end of employment. - If termination occurs with less than three months' notice, individuals must report within three days to avoid potential benefit disruptions.

Unemployment benefits:

Individuals who last worked in Germany may be entitled to unemployment benefits under certain conditions, including a minimum period of prior employment.

Employment periods in other EU countries can be considered when determining eligibility for benefits, verified through the PD U1 form.
Benefits include financial assistance and access to employment services offered by the Federal Employment Agency, facilitating job searches and training opportunities.

Transferability of benefits:

Unemployment benefits obtained in Germany can be transferred to another EU country for a limited period (three to six months) to facilitate job searches abroad.
Conversely, individuals can bring their unemployment benefits from another EU country to Germany for the same purpose.
However, specific conditions must be met, and individuals must contact their employment service to ensure continued entitlement to benefits.

Basic income support:

Basic income support provides essential financial assistance for individuals seeking work, including those with insufficient entitlement to unemployment benefits.
Eligibility for support under the Second Social Code (SGB II) is contingent upon factors such as income level and duration of previous employment.
Special regulations apply to EU citizens accessing social benefits in Germany, including provisions for single parents and individuals exclusively seeking employment.
Benefit Structure of the Citizen's allowance:

The Citizen's allowance, disbursed by the local competent jobcentre, constitutes a monthly flat-rate cash benefit aimed at ensuring subsistence for eligible individuals. Effective from January 1, 2023, the standard requirement for single individuals or single parents stands at EUR 501 per month. For households with multiple occupants, the standard needs are allocated as follows:

- EUR 451 per month for spouses, life partners, and other cohabiting partnerships.
- EUR 402 per month for other individuals capable of work residing within a community of needs, provided they are above 18 years of age, or for adults under 25 years who relocate without jobcentre approval.
- EUR 420 per month for adolescents aged above 14 years until they attain the age of 19.
- EUR 378 per month for children aged between seven and 14 years.
- EUR 318 per month for children under the age of six.

Furthermore, the costs associated with accommodation and heating are acknowledged as essential needs, provided they are deemed appropriate. Additionally, supplementary provisions are made for specific circumstances, such as pregnant women, single parents, and one-time benefits for essential expenditures, such as childbirth or relocation to a new residence.

Applications are made at labour offices and jobcentres, where you can obtain the relevant forms.

Severance pay

While German employment law doesn't require severance payments, over 85% of dismissal disputes end in severance agreements. Severance payments are disbursed upon the termination of employment under specific circumstances:

1. When the employment contract explicitly stipulates a contractual severance provision, though this is uncommon;
2. upon mutual agreement between the parties, either within or outside of court, to resolve a termination dispute;
3. if the court, upon finding the termination invalid, deems continued employment intolerable for either party and orders dissolution of the employment relationship with severance; or
4. if a social plan, negotiated with the works council as part of a collective redundancy, includes provisions for severance payments.

Employer-initiated terminations deemed invalid typically lead to reinstatement orders by the labour court, unless the parties reach a mutual termination agreement, often entailing a severance payment, to resolve the dispute.

In Germany, many dismissal disputes culminate in such agreements, which may also involve extending the notice period, reflecting the stringent criteria for valid terminations and the employee-centric rulings of German labour courts.

In Germany, severance pay calculations are often determined by a formula, although this formula is not legally binding. It usually considers factors such as the employee's monthly gross salary, years of service, and a variable factor denoted as "x," typically falling between 0.5 and 1.5.

However, the specific value of "x" may vary based on individual circumstances, industry standards, and the geographical region within Germany.

These calculations are commonly employed in both labour court decisions and severance agreements.

Restrictive covenants

Prohibition of competition

The primary forms of restrictive agreements are the non-compete clause and the non-solicitation clause, designed to prohibit employees from engaging in competitive activities and from soliciting former colleagues, respectively. German employment law imposes strict limitations on the inclusion of restrictive covenants within employment contracts. For a post-contractual restrictive covenant to be legally binding, it must meet several criteria.

Firstly, it must be documented in writing, with signatures in ink, and the employee must receive an original copy of the agreement. Additionally, the employer must demonstrate a legitimate commercial interest in imposing such restrictions, while ensuring that the employee's rights are not unlawfully constrained.

The duration of the restrictive covenant is also regulated under German law, with a maximum period of two years permitted. Furthermore, to enforce such a covenant, the employer must provide compensation to the employee, amounting to at least 50% of their prior overall earnings during the stipulated period. However, if the scope of the covenant exceeds what is deemed justifiable, the employee has the option to adhere to the legitimate aspects and receive compensation, or disregard the covenant entirely without compensation.

Employers hold the authority to waive the restrictive covenant, but compensation obligations endure for 12 months following termination, unless the termination is immediate and for cause.

Non-compete clauses are common, restricting employees from engaging in activities for competing companies, either related to the company or the employee's specific activities.

Non-solicitation clauses are also prevalent, prohibiting employees from actively soliciting former customers or poaching other employees.

It's noteworthy that customer-related non-solicit clauses are considered non-compete agreements and therefore require compensation, while clauses related to employees do not have this requirement. These regulations reflect the intricate balance between protecting employer interests and safeguarding employee rights within the German labour framework.

Enforcement of restrictive covenants:

When restrictive covenants are lawfully agreed upon, they can be enforced through the labour courts.
Injunctive relief may be sought to compel the employee to cease any competing activities.
During the violation of restrictive covenants, the employer is not obligated to provide compensation.
The employee may be liable to compensate the employer for damages arising from covenant violation, though quantifying these damages can pose challenges.
Parties can opt for a contractual penalty for each breach of the covenant, simplifying the process by eliminating the need to demonstrate damages.

Use and limitations of Garden leave:

Unilateral release of employees by the employer is generally not permitted unless justified by employee misconduct, business protection concerns, or competing acts.
Employees are commonly released from duty after receiving termination notice until the end of the notice period, with continued remuneration. Outstanding vacation days may be deducted from the period of release.
While on garden leave, employees are prohibited from engaging in competing activities, as statutory non-compete clauses remain in effect.
If the employer definitively releases the employee, the non-compete clause should be explicitly maintained.
Although employees theoretically can contest garden leave through interim injunctions, this is rarely pursued in practice.

Remote working

Remote working policy

Employees working remotely are entitled to the same rights as regular employees in terms of salary, daily and weekly breaks, annual leave, etc. In Germany, remote working arrangements encompass two main types: "teleworking" and "mobile working". Teleworking involves employees either exclusively working from home or alternating between home and an office workstation. On the other hand, mobile working entails performing tasks remotely using mobile devices from various locations, including home or while traveling.

However, there is currently no legal entitlement to work from home or engage in mobile work in Germany. Employees can only do so if permitted by their employment contract, a company agreement, or on a case-by-case basis with employer approval.

When working from home ("home office"), employees must adhere to regulations governing working hours and rest periods. The employer is responsible for ensuring compliance with the Working Time Act, providing breaks and rest periods, and maintaining occupational health and safety standards at the home office.

Additionally, employers are encouraged to furnish necessary equipment and, in some cases, provide office furniture to support the home office setup.

Employment contracts in Germany typically include provisions such as the names and addresses of both parties, contract inception date, duration, probation period, place of work (including multiple locations if applicable), job description, remuneration, working hours, notice period, and references to collective bargaining agreements and company agreements.

In Germany, there is no specific legislation that directly regulates the conditions of working from home. Accordingly, employers are not obliged to provide any additional allowances or lump sums for employees working remotely. German law, particularly § 670 of the German Civil Code (BGB),

stipulates that if an employee procures necessary work equipment independently due to restrictions on taking such equipment from the company premises, they may claim reimbursement from their employer.

It's important to note that this provision is applicable only when an employee makes a formal request for reimbursement. Additionally, expenses incurred in a home office setting, along with equipment costs, may be eligible for tax deductions under Section nine Paragraph five of the Income Tax Act (EStG) in conjunction with Section four Paragraph five Sentence one No. six-b of the EStG. However, eligibility for full tax deductions is contingent upon meeting specific criteria, including conducting all professional activities exclusively from the home office, referred to as teleworking. Otherwise, the tax deduction is capped at €1,250.00 per calendar year. It's important to note that at present, we are not providing any allowances to our employees in Germany.

When considering the employment of foreign nationals working remotely in Germany, several legal aspects must be taken into account:

Work Authorization: Most employees working in Germany, including remotely, require a residence title and work permit. Citizens of specific countries can work remotely for a foreign company without a local employer. Various types of residence permits are available, determined on a case-by-case basis. Visa requirements depend on nationality, with processing times ranging from six weeks to three months.

Risk of Permanent Establishment: Risk exists, determined by the nature and continuity of entrepreneurial activities. Main factors vary depending on the company's corporate structure and activities.

Local Social Security and Payroll Requirements: German social security regulations may apply based on bilateral agreements or posting conditions. Foreign employers may need to pay social security contributions in Germany and appoint a local contact person. Dual social security system exposure may occur due to the lack of bilateral agreements.

Local Employment Law Requirements: Posted Workers Act and German employment laws apply to remote workers in certain sectors. Mandatory provisions include minimum wage, maximum working hours, annual leave, termination protection, etc.

Remote Foreign Worker: No specific regulations govern mobile work, although a Mobile Work Act is under consideration.

Income Tax: Employees are taxed based on residency and where the work is performed, subject to double taxation agreements. Employers may be required to withhold income tax depending on the taxation agreement.

Claim for Workplace Injury: Eligibility for workplace injury claims depends on German social security coverage.

National Healthcare System or Insurance: Coverage under the local national healthcare system depends on social security regulations.

Health and safety at home

The regulations outlined in the German Working Conditions Act (ArbSchG) extend to remote working arrangements as well. Employers bear the responsibility for ensuring the health and safety of employees, regardless of whether they work remotely or on-site.

Under the Labour Protection Act (Arbeitsschutzgesetz), employers are mandated to prevent risks to employees' physical and mental well-being and minimize any remaining risks.

While German law does not prescribe specific measures for remote workers, such as addressing physical health issues or psychological stress, it mandates that employers conduct a risk assessment (Gefährdungsbeurteilung) to determine necessary precautions. It's imperative that the remote workplace is equipped safely.

Since employers lack legal access to employees' homes, it's advisable to include provisions in remote work agreements permitting access for compliance with occupational health and safety regulations.

An employee working remotely from home must be insured under the same conditions as if they were working at the company's usual place of business. Typically, employers and employees will agree that work-related resources provided by the employer and any remaining company property will be insured against damage, theft, and fire.

German jurisprudence has explicitly affirmed that statutory accident insurance coverage extends to remote work situations, provided that the accident "occurs in the course of an activity performed with the intent to serve the employer's interests."

Essentially, if the employee is actively engaged in work duties for the employer while in a home office, statutory accident insurance coverage applies. However, case law applies strict criteria, and interruptions in work, even if brief, may lead to the loss of coverage under occupational insurance.

Complementary terms

Intellectual property rights

The German legal framework, notably the German Employees' Inventions Act (Arbeitnehmererfindungsgesetz or AEG), provides a comprehensive structure for addressing employee inventions. 1) Employee Notification Obligations: Employees are required to promptly notify their employers in writing upon making an invention, as per the provisions of the AEG. This

notification should include a detailed description of the technical problem, the solution devised, and the process leading to the invention.

2) Employer Claim and Patent Protection: Employers have a four-month window upon receiving notification to claim the invention. This claim grants either exclusive or non-exclusive rights to the employer. Subsequently, the employer is responsible for initiating patent protection proceedings in Germany to safeguard the invention.

3) Entitlement to Remuneration: If the employer claims the invention, the employee is entitled to remuneration as per the AEG. The calculation of remuneration considers factors such as the economic value of the invention, the employee's role within the organisation, and the employer's contribution.

4) Calculation of Remuneration: Remuneration is typically provided annually, with considerations for one-time payments under specific circumstances. The Compensation Directive provides detailed guidelines for calculating remuneration, considering methodologies such as hypothetical royalties and ascertainable benefits to the employer.

5) Dispute Resolution Mechanisms: Disputes regarding remuneration can be referred to the Arbitration Board at the German Patent Office for resolution, ensuring fair outcomes for both parties involved. Timely resolution of disputes is essential to maintain trust and foster positive relationships between employers and employees. 1) Legislative Reforms and Future Outlook: Anticipated legislative reforms aim to streamline remuneration calculation processes and simplify the claiming of employee inventions. Until these reforms are enacted, businesses must adhere to existing procedures diligently, staying informed about legislative developments to ensure compliance.

2) Safeguarding Intellectual Property Rights: Robust systems for handling employee inventions are essential for businesses seeking to protect their intellectual property rights effectively. Adherence to the provisions outlined in the AEG and proactive measures to address potential disputes can mitigate risks and ensure the long-term viability of intellectual property assets.

3) Innovation and Business Competitiveness: By comprehensively understanding and adhering to the regulations outlined in the AEG, businesses can foster innovation, protect intellectual property rights, and maintain equitable relationships with their employees. Employee-driven innovation plays a crucial role in maintaining competitiveness and driving growth in dynamic market environments.

4) Importance of Compliance Culture: Cultivating a culture of compliance with intellectual property laws is essential for businesses operating in Germany. Educating employees about their rights and obligations under the AEG, providing training on IP-related matters, and implementing robust internal processes can help mitigate risks and ensure legal compliance.

5) Strategic Considerations for Businesses: Businesses should proactively assess their IP management strategies, including mechanisms for handling employee inventions, remuneration calculation, and dispute resolution. Engaging with legal experts and leveraging best practices can enhance organisational resilience and protect valuable intellectual property assets in an evolving regulatory landscape.

Employee data privacy

Data privacy protection laws in Germany are among the most stringent in the world, with comprehensive regulations aimed at safeguarding individuals' personal information. 1) Legal Framework: Germany's data privacy protection laws are primarily governed by the Federal Data Protection Act (Bundesdatenschutzgesetz or BDSG) and the General Data Protection Regulation (GDPR). These laws establish the legal framework for the collection, processing, and storage of personal data, including employee data, within the country.

2) Principles of Data Protection: The BDSG and GDPR are founded on several fundamental principles, including data minimization, purpose limitation, transparency, accuracy, integrity, and confidentiality. Employers must adhere to these principles when handling employees' personal data to ensure compliance with data privacy regulations.

3) Lawful Basis for Processing: Employers are required to have a lawful basis for processing employees' personal data under the GDPR. This typically includes obtaining explicit consent from employees, fulfilling contractual obligations, complying with legal obligations, protecting vital interests, performing tasks carried out in the public interest or official authority, and pursuing legitimate interests pursued by the employer or a third party.

4) Employee Rights: Employees in Germany have various rights regarding their personal data, including the right to access, rectify, erase, restrict processing, object to processing, and data portability. Employers must respect these rights and provide mechanisms for employees to exercise them effectively.

5) Data Protection Officer (DPO): Under the GDPR, certain organisations are required to appoint a Data Protection Officer (DPO) to oversee data protection compliance. While not mandatory for all employers, appointing a DPO can help ensure proactive management of data privacy risks and demonstrate commitment to regulatory compliance. 1) Data Transfer Restrictions: Germany imposes strict restrictions on the transfer of personal data outside the European Economic Area (EEA) to ensure adequate levels of data protection. Employers must implement appropriate safeguards, such as Standard Contractual Clauses (SCCs) or Binding Corporate Rules (BCRs), when transferring employees' personal data to countries outside the EEA to comply with GDPR requirements.

2) Data Breach Notification: The GDPR mandates data breach notification requirements, obligating organisations to report certain types of personal data breaches to the relevant supervisory authority without undue delay and, where feasible, within 72 hours of becoming aware of the breach. Employers must have robust incident response plans in place to detect, assess, and mitigate data breaches effectively and minimize the impact on employees' personal data.

3) Privacy Impact Assessments (PIAs): Conducting Privacy Impact Assessments (PIAs) is a best practice recommended by German data protection authorities to identify and mitigate privacy risks associated with new projects or data processing activities. Employers should perform PIAs regularly to assess the potential impact on employees' privacy and implement appropriate measures to protect their personal data.

4) Employee Training and Awareness: Investing in employee training and awareness programs is crucial for fostering a culture of data privacy within organisations. By educating employees about their rights and responsibilities under data protection laws, employers can empower them to contribute to data privacy efforts and mitigate the risk of non-compliance.

5) Data Subject Requests Handling: Employers must establish efficient processes for handling data subject requests, including requests for access, rectification, erasure, and data portability. Promptly responding to these requests is essential to demonstrate transparency and accountability and maintain trust with employees.