

# Germany: Industrial relations profile

## Facts and figures

Area: 357,021 square kilometres

Population: 82.2 million (2007)

Language: German

Capital: Berlin

Currency: Euro

## Economic background

	Germany	EU27
<b>GDP per capita (2007)</b> (in purchasing power standards, index: EU27=100)	114.8	100
<b>Real GDP growth (% change on previous year)</b> (annual average 2004–2007)	1.88%	2.63%
<b>Inflation rate</b> (annual average 2004–2007)	1.95%	2.18%
<b>Average monthly labour costs, in €(2005)</b>	€3,786	€2,981
<b>Gross annual earnings, in €(2005)</b>	€41,694	€28,992
<b>Gender pay gap</b> (Difference between average earnings of male and female employees as a percentage of earnings of male employees, 2007)	23%	n.a.
<b>Employment rate (15–64 years) (2007)</b>	69.4%	65.4%
<b>Female employment rate (15–64 years) (2007)</b>	64.0%	58.3%
<b>Unemployment rate (15–64 years) (2007)</b>	8.4%	7.1%
<b>Monthly minimum wage</b>	No statutory minimum wage	n.a.

Source: [Eurostat](#)

## Industrial relations, pay and working time

	Germany	EU27 (unweighted)
<b>Trade union density (%)</b> (Trade union members as a percentage of all employees in dependent employment)	22% (2005)	n.a.
<b>Employer organisation density (%)</b> (Percentage of employees employed by companies who are members of an employer organisation)	63% (2006)	n.a.

<b>Collective bargaining coverage (%)</b> (Percentage of employees covered by collective agreements)	61% (2007)*	n.a.
<b>Number of working days lost through industrial action per 1,000 employees (annual average 2004–2007)</b>	5,62 days	37.47 days (estimate)
<b>Collectively agreed pay increase (%)</b> (annual average 2004–2007)	1.8%	5.53%
<b>Actual pay increase (%)</b> (annual average 2004 – 2007)	1.8%	2.1%
<b>Collectively agreed weekly working hours (2007)</b>	37.6 hours	38.6 hours
<b>Actual weekly working hours (2007)</b>	41.1 hours	40 hours

Notes: \* [Institut für Arbeitsmarkt- und Berufsforschung \(IAB\)](#). n.a. = not available.

Sources: [European Industrial Relations Observatory \(EIRO\)](#) and Eurostat

## Background

### Economic context

In Germany, Europe's largest economy, about 68% of all employees worked in the services sector in 2007, which is slightly less than the average of the 15 EU Member States that constituted the EU before the enlargement of 1 May 2004 (EU15). Germany's transformation to a services society has been marked by a growth in personal and business services and a decline in social (state) services. While services add up to 70% of the gross domestic product (GDP), manufacturing and construction have been robust in accounting for 30% of GDP since the early 1990s. The automotive, machinery and chemicals sectors contribute to Germany's worldwide leading export rates. The dependency on exports has caused an above European average downturn of the German economy in the recession: GDP declined by 6.7% between the beginning of 2008 and the first quarter of 2009. The unemployment rate rose to 8.2% in May 2009, corresponding to an increase of 0.4 percentage points compared with the previous year; in May 2009, the unemployment rate stood at 13.3% in west Germany and 6.9% in east Germany. This moderate increase in unemployment is largely attributed to an extensive use of short-time working in Germany. While full-time work has been declining, Germany has the second highest share in part-time employment in the 27 EU Member States (EU27).

### Legal context

The system of industrial relations was shaped in the post World War II-period in the Federal Republic of Germany and extended to east Germany after the reunification in 1990. The basic features of the system were geared towards depoliticising industrial relations and taking conflict out of the workplace. German industrial relations exhibit strong juridical ties based on legislation and case law. The most characteristic feature is the 'dual system of interest representation' based on trade unions and employers who are solely responsible for **collective bargaining**, and [works councils](#) as the main workplace employee representation bodies.

The core of legislation concerning collective bargaining is the Collective Agreement Act (*Tarifvertragsgesetz*) of 1949. This act states that, on the employees' side, only trade unions have

the right to conclude **collective agreements**, while both employer organisations and individual employers can act as bargaining parties. The dominant pattern since 1949 has been sectoral collective bargaining at industry level between trade unions and employer organisations.

At company level, employee representation in the private sector is governed by the **Works Constitution Act** (*Betriebsverfassungsgesetz, BetrVG*) of 1952, amended in 2001. A works council can be set up in all establishments having at least five employees. All employees – regardless of whether or not they are trade union members – have the right to stand as candidates and all employees can vote. The works council has a number of rights to **co-determination** and **information and consultation**, but it has no right to bargain on issues that are subject to collective agreements, except in cases where such agreements explicitly allow it. The works council has no right to call for strike or other industrial action.

There is no law governing the regulation of strikes or lockouts. Case law has been developed by the Federal Labour Court (**Bundesarbeitsgericht, BAG**) in subsequent rulings. A fundamental legal principle governing disputes is that industrial action must pursue an aim that can be regulated by collective agreement. Strikes and lockouts are only lawful in the context of collective bargaining and political or general strikes are outlawed. Secondary action may be legal under certain circumstances but only trade unions have the right to call for strike action. No individual right exists for workers to go on strike. Strikes that are not officially recognised by a trade union are unlawful, and career civil servants are banned from striking. The lock-out is legal. There is an obligation to maintain industrial peace (**Friedenspflicht**) for the duration of a collective agreement. During this time neither strike nor lockout are allowed as a means to pursue issues laid down in the collective agreement.

## **Main industrial relations trends**

Trade unions, as well as employer organisations, have been facing a decline in membership. A particular challenge has been the development in eastern Germany, where many companies have left, or declined to join, employer organisations and prefer to bargain at company level, if at all. While collective bargaining coverage is declining, a growing number of opening clauses in collective agreements provides for variations at plant level. In a growing number of private services industries, concluding collective agreements at all has shown to be increasingly difficult or not realisable. In the face of a growing low-wage sector, the role of the state in setting minimum wage and working standards is debated.

## **Main actors**

### **Trade unions**

Trade union density declined from 25% in 2000 to 22% in 2005 (European Commission, 2009). The development has been due to an employment decline in traditional strongholds of trade union membership such as in the manufacturing and public sectors.

#### *Main trade union organisations*

Three trade union confederations are present in Germany. More than 85% of all trade union members belong to one of the eight trade unions affiliated to the Confederation of German Trade Unions (**Deutscher Gewerkschaftsbund, DGB**). In total, DGB-affiliated organisations accounted for a **membership rate** of 6,371,475 people in 2008, 32% of whom were women. The German Metalworkers' Union (**Industriegewerkschaft Metall, IG Metall**), the largest DGB affiliated trade union, had 2.3 million members in 2008 (17.7% of whom were women), followed closely by the

United Services Union ([Vereinte Dienstleistungsgewerkschaft, ver.di](#)) with 2.18 million members (50% of whom were women) ([DE0803019I](#)).

The second largest trade union confederation, the German Civil Service Association ([Deutscher Beamtenbund und Tarifunion, dbb](#)), comprises 40 affiliated associations operating in the public and private services sectors. DBB membership in 2008 added up to a total of 1,280,802 members.

The Christian Confederation of Trade Unions in Germany ([Christlicher Gewerkschaftsbund Deutschlands, CGB](#)) has 16 affiliated trade unions. It had a total membership of 278,412 persons in 2007.

A number of trade unions involved in collective bargaining are not affiliated to either of these confederations. The membership of these trade unions added up to about 270,000 people in 2008.

[What were the main developments on the trade union side \(e.g. TU mergers\)?](#)

### *Trends in trade union development*

After several trade union mergers in the 1990s, the latest and most important merger was in 2001, when seven trade unions of the public and private services sectors established the United Services Union ver.di.

Since 2001, a number of occupational trade unions – notably trade unions organising pilots, medical doctors or train engine drivers – have departed from joint bargaining associations with the DGB-unions and entered into separate collective bargaining.

## **Employer organisations**

The employer organisation density was 63% in 2007 (European Commission, 2009).

### *Main employer organisations*

The German Confederation of Employers' Associations ([Bundesvereinigung der Deutschen Arbeitgeberverbände, BDA](#)) and the Federation of German Industries ([Bundesverband der Deutschen Industrie, BDI](#)) have to be considered as the umbrella organisations on the employer's side. Membership in both organisations is open to employers in all industries. However, both organisations serve different purposes.

- BDA is not directly involved in collective bargaining. As an umbrella organisation, BDA seeks to coordinate the bargaining strategies of its members. As of 2008, BDA represents 56 employer associations from all industries, as well as 14 regional associations.
- In comparison to BDA, BDI is not involved in collective bargaining. BDI describes its own tasks as being to 'coordinate the views and recommendations of its members'. It provides information concerning all fields of economic policy.

### *Trends in employer organisation development*

The introduction of the so-called membership status without a binding commitment to collective agreements (*Ohne Tarifbindung Status, OT-Status*) has to be considered as the most important development on the employer's side.

For example, the Employers' Associations for the Metal and Electrical Industry ([Arbeitgeberverbände der Metall- und Elektroindustrie, Gesamtmetall](#)) introduced the *OT-Status* on 31 January 2005. Therefore, Gesamtmetall now offers two different kinds of membership options: The number of members bound by the sectoral collective agreements of Gesamtmetall

decreased from 4,189 members in 2005 to 3,803 members in 2007 in western Germany. However, the number of members who were not bound by the sectoral collective agreements rose from 1,432 members in 2005 to 2,229 members in 2007 in western Germany.

## Industrial relations

### Collective bargaining

The dominant level of collective bargaining is the sectoral level. Sectoral bargaining usually takes place at regional level – that is, at the level of the federal states (*Länder*) – and some regions have the role of the pace setter in collective agreements. Negotiations at national level are rather rare.

In 2008, 46.8% of all valid collective agreements were company level agreements (Institute of Economic and Social Research, 2008), but they cover only a small minority of employees.

### *Collective agreement coverage*

Between 1998 and 2007, bargaining coverage dropped by 13 percentage points in western Germany (from 76% to 63%) and by 9 percentage points in eastern Germany (from 63% to 54%), according to the establishment panel data of the Institute for Employment Research ([Institut für Arbeitsmarkt- und Berufsforschung, IAB](#)) (Ellguth and Kohaut, 2008). In 2007, about 56% of all employees in western Germany and 41% of employees in eastern Germany were covered by sectoral collective agreements. Company-level agreements covered 7% of employees in western Germany and 13% of employees in eastern Germany.

Figures show striking regional differences in the coverage rate of establishments: In 2007, 36% of all western German and about 20% of all eastern German establishments were covered by a sectoral agreement ([DE0811019I](#)).

### *Legal parameters*

[Collective agreements](#) are directly binding for all members of the bargaining parties concerned, according to Article 3, Paragraph 1 of the Collective Agreements Act (*Tarifvertragsgesetz*) – that is, all employees who are members of a trade union and all companies who are members of an employer organisation.

### *Extension of collective agreements*

According to Article 5 of the Collective Agreements Act, the Minister of Labour and Social Affairs may issue an order imposing extension only if the following preconditions are met:

- the trade union or employer organisation signing the agreement, or both, must have applied for such an extension;
- the employers bound by the collective agreement in question must together employ at least 50% of all employees working in the occupational and geographical area covered by the agreement;
- the procedure must be deemed to be ‘in the public interest’;
- a ‘committee on orders imposing extensions’ consisting of three trade union and three employer representatives (from other industries) must have approved the application by a majority of at least four votes.

Since 1999, the Federal Ministry of Labour and Social Affairs ([Bundesministerium für Arbeit und Soziales, BMAS](#)) is enabled to declare under certain conditions wages and working conditions to be generally binding by a ministerial directive thus circumventing the ‘committee on orders imposing extensions’.

Out of 64,300 collective agreements registered with BMAS ([Allgemeinverbindliche Tarifverträge](#)) in 2008, a total of 640 agreements have been extended. Out of these, only 186 agreements covered eastern Germany

No legal mechanisms exist for the application or extension of the terms of collective agreements. However, according to the IAB establishment panel data, about 27% of all west German and about 22% of all east German establishments voluntarily take sectoral collective agreements as wage pattern (Ellguth and Kohaut, 2008). There is no explicit wage bargaining coordination at national level.

### *Trend towards decentralisation*

There is a trend towards decentralisation of collective bargaining as collective bargaining coverage of branch-level agreements declines. Since the 1990s, the German system of collective bargaining also saw a continued extension of so-called opening clauses into sectoral collective agreements ([DE0606019I](#)). These allow under certain conditions to diverge from collectively agreed standards. This usually requires the consent of both trade unions and employer organisations. According to the 2005 works council survey by the Institute of Economic and Social Research ([Wirtschafts- und Sozialwissenschaftliches Institut, WSI](#)) within the Hans-Böckler Foundation ([Hans-Böckler Stiftung](#)), some 75% of establishments with 20 and more employees made use of opening clauses.

### **Other issues in collective agreements**

Apart from pay, the most important issues have been **working time**, including flexible working time arrangements and working time accounts. **Health and safety** has also been considered in a number of cases as, for example, in a new collective agreement for the steel industry in 2006 ([DE0610019I](#)). In addition, the parties in the steel industry agreed on a collective agreement on ‘demographic change’. This issue was also catered for in a collective agreement in the chemicals industry in 2008. This included ‘demography analyses’ at company level and health prevention measures for older workers ([DE0805029I](#)).

Triggered by risks of plant closures and redundancies, IG Metall and ver.di have in several cases negotiated a new type of collective agreement (*Sozialtarifverträge*) to regulate plant closures or relocations of sites. These agreements usually provide for the transfer of employees to ‘job creation’ agencies, training, and redundancy payments.

**Lifelong learning** and training other than vocational training are rather new issues addressed by collective bargaining. In 2001, IG Metall and the employer organisation of Baden-Württemberg concluded a collective agreement on training, which was meant to be pattern setting ([DE0104218F](#)). By now, there are agreements on training in various sectors. In the metalworking sector, collective agreements address issues such as demand assessment, learning arrangements, and costs and working time of training. In the chemicals sector, collective agreements rather focus on interplant provisions of further and **vocational training** (Bahnmüller, 2007).

Issues of **gender equality** have been rarely directly addressed in collective agreements. Typically, gender equality is reduced to the theme of **work-life balance** and is issued as a matter of working time flexibility (Klenner, 2005).

## Industrial conflict

### *Frequency of strikes*

The Federal Employment Agency ([Bundesagentur für Arbeit, BA](#)) does not record any statistics on the number of strikes or lock-outs, but it issues data on the number of affected establishments, the days not worked because of industrial action and the number of employees involved. Industrial actions lasting less than a day or actions involving less than 10 workers are not reported. Federal statistics and trade union strike statistics thus provide substantially different figures.

The overall level of strike action in Germany is low compared with other European countries. The relative volume of industrial action – that is, days not worked (DNW) per 1,000 employees – was on average 4.6 days a year over the period 2000–2007, according to the official BA records. On average, 3.4 out of 1,000 employees were involved in industrial action a year in the period 2000–2007.

However, the most important form of official strike action in Germany, in terms of frequency and workers' involvement, is the so-called warning strike ("[Warnstreik](#)") – a short token strike to demonstrate the determination of the trade union and its ability to mobilise. These strikes which may involve a great number of workers are often not fully recorded.

### *Sectors involved*

The sector most frequently involved in strike action is the metalworking sector. Due to a great number of warning strikes, employees in this sector accounted for two thirds of all workers on strike over the period 1990–2007. Strike activity has also increased in several services sectors, such as in retail trade, financial services and healthcare sectors. In the current decade, the public sector, telecommunications, railway and the retail trade sectors have seen the longest lasting strikes for decades in Germany.

### *Main reasons for collective action*

Reasons for strike actions were either collective bargaining demands or defending given employment standards. Most strikes were triggered by wage demands, but in the public sector they were also spurred by the employer demand to extend working time ([DE0606029I](#)).

A number of disputes at company level were triggered by plans to relocate or close production at a site. As strikes are only legal in Germany for reasons that can be regulated by collective agreement, IG Metall tabled demands for collective agreements (*Sozialtarifvertrag*) to regulate relocations and plant closures. The most prominent of these disputes took place at Electrolux's [AEG](#) site in Nuremberg ([DE0603039I](#)).

A rather new development in post-war Germany has been strikes by small occupational trade unions bargaining for selected professions. Examples in this regard were disputes involving pilots, hospital doctors and engine drivers.

### *Conflict resolution and arbitration mechanisms*

In many sectors, trade unions and employer organisations have concluded a [joint dispute resolution agreement](#) (*Schlichtungsvereinbarung*). Such resolution agreements usually define when the peace obligation expires and therefore when a trade union can call an official strike. If negotiations for a new collective agreement fail to achieve any result, the bargaining parties can apply to the agreed [joint dispute resolution](#) procedure (*Schlichtung*) to prevent the outbreak of

industrial action. The procedure does not have to lead to a compromise, but may merely intend mediation. There is no statutory mediation or arbitration procedure.

### **Tripartite concertation**

In Germany, no institutionalised tripartite or bipartite economic and social council exists at national level.

### **Workplace representation**

According to the 2005 IAB findings, a works council is set up in only 11% of all private establishments. They cover 47% of western German and 39% of eastern German employees (Ellguth and Kohaut, 2008). Works councils exist in almost all of the larger establishments but are rare in small workplaces. Works councils are most often to be found in manufacturing, as well as in the public and energy sectors, and in financial services ([DE0811019I](#)). There are considerable difficulties to set up works councils in sectors such as information technologies (IT), retail trade and healthcare, as well as in low-wage services industries.

At company level, employee representation in the private sector is governed by the Works Constitution Act (*Betriebsverfassungsgesetz, BetrVG*) of 1952, amended in 2001. A works council can be set up in all establishments having at least five employees. All employees – regardless of whether or not they are trade union members – have the right to stand as candidates and all employees can vote. The works council has a number of rights to co-determination, and information and consultation, but it has no right to bargain on issues that are subject to collective agreements except in cases where such agreements explicitly allow it. The works council has no right to call for strike or other industrial action.

### **Employee rights**

According to the Labour Courts Act (*Arbeitsgerichtsgesetz*), individual and collective applications of labour law are assured by labour courts working at federal, regional and district level. In all instances of a process, so-called lay judges, who are nominated by the trade unions and employer organisations, participate. Both parties may also represent an individual member before the court.

Labour inspection lies with the Ministries of Labour of the federal states which, in most states, have decentralised inspection services to be carried out at district or local level. The Works Constitution Act involves the works council in health and safety issues and allows for the setting up of risk assessments. By law, health insurers and employers' liability insurance associations have to cooperate with employers and employees to prevent health and safety risks.

## **Pay and working time developments**

### **Minimum wage**

There is no statutory national minimum wage in Germany. However, in light of a growing number of low-wage earners, the lack of a statutory minimum wage has become a hotly debated issue in German politics ([DE0409205F](#)). As there has been no agreement in the governmental coalition of the conservative and social-democratic parties to introduce a general statutory minimum wage, the government makes use of the Posted Workers Act (*Arbeitnehmer-Entsendegesetz, AEntG*). The act allows the minimum standards on pay and working conditions of a sectoral collective agreement to be extended to the whole industry covering all domestic and

**posted workers** – namely, workers from one EU Member State sent temporarily by their employer to work in another Member State ([DE0609049I](#)). The first sector to be included in the Posted Workers Act was the construction industry. Other industries such as postal delivery services, industrial cleaning and private security services were subsequently included in the Posted Workers Act. The inclusion of further industries is debated at present.

## Pay developments

In this decade, pay developments in Germany have been marked by wage restraint; developments have thus differed from main European trends in several respects. Real earnings decreased by 1.5% over the period 2000–2008 according to federal statistics, while they increased in most other European countries. According to [data](#) provided by the Federal Office of Statistics ([Statistisches Bundesamt, destatis](#)), gross annual earnings an hour increased by 13.3% between 2000 and 2008, and gross hourly labour costs by 12% over the same period.

In a [ranking of European labour costs \(in German, 2Mb PDF\)](#) based on Eurostat data, Germany held position eight in terms of hourly labour costs in the private sector in 2007 and 2008, with hourly labour costs amounting to €28 in Germany compared with an average of €26 at EU level. Whereas labour costs in the German manufacturing sector were among the highest in the EU (position four), labour costs in private services stood at the European average ([DE0607019I](#)).

In 2008, the gender pay gap rose to 23% and was one of the highest in Europe. A slow decline in the gender pay gap is due to an increasing number of better educated women working in better paid jobs rather than to a change in wage policy.

## Working time

The statutory daily working time (excluding breaks) is eight hours in Germany. An extension of the daily working time up to 10 hours is possible if within six months or 24 weeks an average of eight hours a day is not exceeded. There is no statutory maximum weekly working time.

Collective agreed working time in 2008 was 37.4 hours in western Germany and 38.8 hours in eastern Germany. Collectively agreed working time was lowest at [Deutsche Telekom](#) (34 hours a week) and the metalworking sector (35 hours a week) and highest in a range of services sectors (40 hours a week). IG Metall, which had pioneered the 35-hour week in western Germany, failed to do so in eastern Germany in 2003. Many collective agreements provide for opening clauses that allow deviations from the standard weekly working time. Some prominent disputes arose, notably in the public sector in 2006 and 2008, over the extension of collectively agreed weekly working times.

According to the [Eurofound](#) report on [Annual working time developments – 2007](#) based on Eurostat data, the [actual weekly working hours](#) in Germany stood at 41.1 hours in 2007, which is above the EU average of 40 hours.

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