

# BIPO TIMES

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## Understanding Germany's Labour Laws and Employment Regulations

### Overview

Germany is the biggest economy in Europe and is ranked 4th largest economy worldwide in terms of nominal Gross Domestic Product (GDP). There are four key industries in Germany; Services, Production, Construction, and Agriculture. The Services industry accounts for 69.8% of the country's GDP, followed by the Production industry at 23.5%. Finally, the Construction and Agriculture industries contribute 5.9% and 0.9%, respectively.

### Top 10 Sectors to Invest In

1. Machinery
2. Automotive
3. Aviation
4. Chemical
5. Medical
6. Consumer and service
7. Energy
8. Environment
9. Electronics
10. ICT

### Basic Country Facts



**Capital**  
Berlin



**Population**  
83,130,000



**Currency**  
Euro (EUR, €)



**GDP per Capita**  
USD 50,801.79 (as of 2021)

# Germany's Employment Law

## Individual Employment Law

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- **Individual Employment Contract (“Arbeitsvertrag”)** establishes the relationship between the individual employee and the employer.
- **German Civil Code (“Bürgerliches Gesetzbuch” or “BGB”)** covers the basic regulations for employment contracts.
- **Part-time and Fixed-term Work Act (“Teilzeit- und Befristungsgesetz”)** prevents discrimination in the treatment of part-time or fixed-term employees in comparison to full-time employees.
- **Employee Leasing Act (“Arbeitnehmerüberlassungsgesetz”)** states that a company or individual must have an [Arbeitnehmerüberlassung \(AUG\) license](#) to lease out German employees as contractors.
- **Federal Holidays Act (“Bundesurlaubsgesetz”)** establishes the minimum number of vacation days at 20/24 days per year.
- **Maternity Protection Act (“Mutterschutz”)** protects the health of women and their children at the place of work, training and study during pregnancy, after childbirth and during breastfeeding.

## Collective Employment Law

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- **Business Constitution Act (“Betriebsverfassungsgesetz”)** grants employees a right to participation and codetermination in social, personnel and economic matters.
- **Codetermination Act (“Mitbestimmungsgesetz”)** allows workers to elect representatives (usually trade union representatives) for almost half of the supervisory board of directors.
- **German Trade Union Confederation (DGB)** is an umbrella organisation representing around six million members from eight trade unions.
- **Collective Agreement Act (“Tarifvertragsgesetz”)** governs the rights and obligations of the parties to the collective agreement and contains legal rules which may regulate the content, the entering into and termination of employment relationships as well as establishment-level issues and staff and works council matter.

## Data Protection Overview

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Data protection in Germany is primarily governed by the General Data Protection Regulation of the EU (**GDPR**). Companies that have 20 employees or more are required to appoint a **data protection officer** (DPO).

Some subjects could be:

- Records of processing activities
- Data processing for advertising purposes
- Data transfers to third countries
- Right of access
- Right to be forgotten
- Data protection in the employment context
- Video surveillance

Case law:

- A company must pay €5,000 to a former employee because the company's response was late and not comprehensive to a subject access request.
- The Regional Court of Munich granted a non-material damage in the amount of €2,500 to a data subject in the aftermath of a personal data breach.

# Employment Contract

## Written Employment Contract

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It is **not mandatory** to have a **written** employment agreement in place in Germany in the initial stages of hiring a new employee. However, an employer must **provide a summary** of what the employment relationship entails within the **first month** of an employee commencing employment.

This should include details such as:

- Employer and employee personal details
- When the employment officially commenced
- The job description with responsibilities, place of work, and hours
- Salary or hourly rate
- Which leave entitlement and notice period is applicable
- Any reference to related collective agreements

To avoid future disputes, a version of the employment contract should be drafted in German. However, this is not required by law.

## Fixed-term/Open-ended Contracts

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- Generally, the employment contract is entered into for an indefinite period.
- A **fixed-term contract** is possible and **ends automatically** without written notice at the end of its term.
- Fixed-term employment relationships must be **justified by objective grounds** outlined in the statute law (e.g. temporary increase in work volume, substitution of employee during parental leave).
- If there are no objective grounds, the fixed-term contract is limited to a **maximum of 2 years**, provided that the employee has no prior contract with the **same employer**.
- If the parties continue the employment relationship after the contract expires, the agreement is assumed to be for an indefinite period.

## Trial Period

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- The employer and employee may agree upon a trial period, which is limited by law to a **maximum** duration of **6 months**.
- The **notice period** within the trial period is **2 weeks**, unless otherwise agreed.
- The Dismissal Protection Act does not apply during the first 6 months of employment, regardless of whether the parties agreed upon a trial period.

## Notice Period

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- The **length** of the notice period for employees **depends on** their **length of service**, ranging from 4 weeks for employees with less than 2 years' seniority to 7 months for employees with more than 20 years' seniority.
- The employee **may** terminate the employment with a notice period of 4 weeks to the 15th or the end of a calendar month.
- Most employment contracts align the employee's notice period with the extended period, e.g. 6 weeks to the end of the next quarter or 2 months.

## Working Hour Limits

- The average full-time employee works anywhere from 35–40 hours a week, but it is possible to work up to **48 hours a week**.
- The statutory maximum working time is 8 hours per day from Monday to Saturday. Working on Sundays and public holidays is generally forbidden unless explicitly permitted by statutory law.
- All employees who work 6 to 9 hours a day are entitled to a **30-minute break**, and there must be at least 11 hours in between shifts.

## Social Media and Data Privacy

- **Employers have the right** to determine whether or not the employees are allowed to use the company Internet, telephone, or e-mail system for private matters within or outside of their working hours.
- **Employers are authorised** to issue warnings and even terminate the employment contract if the employee violates the prohibition on private use of work equipment.
- Prohibiting private use of the employee's company e-mail address is **strongly recommended** as monitoring and accessing their account may be challenging and may even be a criminal offence.

# Leave Types

## Leave Entitlement

The various types of leave entitled in Germany are as follows:

<b>Annual Leave</b>	<ul style="list-style-type: none"><li>• Employees are entitled to a minimum of <b>24 days</b> off for a 6-day work week (2 accruing days/month) and <b>20 days</b> for a 5-day work week (1.67 accruing days/month).</li><li>• Most employees receive an <b>average of 30 days per year</b>.</li></ul>
<b>Sick Leave</b>	<ul style="list-style-type: none"><li>• Employees are granted <b>6 weeks</b> (42 days of sick leave) per case only after 4 weeks of employment and have received their full salary for the first 6 weeks.</li><li>• Validity period: N/A</li></ul>
<b>Maternity Leave</b>	<ul style="list-style-type: none"><li>• <b>14 paid weeks</b> (6 weeks before and 8 weeks after childbirth).</li><li>• <b>18 paid weeks</b> (6 weeks before and 12 weeks after childbirth—in case of premature, caesarean, multiple births, or if the child is born with a disability).</li></ul>
<b>Paternity Leave</b>	<ul style="list-style-type: none"><li>• There is no statutory paternity leave in Germany.</li></ul>
<b>Parental Leave</b>	<ul style="list-style-type: none"><li>• Employees are entitled to up to <b>3 years of unpaid leave</b>, which can be split between the two parents.</li><li>• Parents can apply for <a href="#">parental allowance</a>. This state-funded programme pays up to €1,800 per month.</li></ul>

<p><b>Carer's Leave</b></p>	<ul style="list-style-type: none"> <li>• Employees can take unpaid time off, either short- or long-term care leave, from work to care for their loved ones.</li> <li>• <b>Short-term:</b> Up to <b>10 days</b> of unpaid leave. No social insurance contributions occur during this period, but the employee's insurance cover is maintained.</li> <li>• <b>Long-term:</b> Up to <b>6 months</b> of complete or partial leave. The employer must be informed at least 10 working days in advance. In companies with fewer than 15 employees, the employer has the right to reject the leave.</li> </ul>
<p><b>Force Majeure Leave</b></p>	<ul style="list-style-type: none"> <li>• Employees can take <b>3–5 days</b> within a year to attend to urgent family matters while receiving their regular pay, but the details should be written in the employment contract.</li> </ul>
<p><b>Bereavement Leave</b></p>	<ul style="list-style-type: none"> <li>• Employees are usually given <b>2 days</b> for mourning and funeral for a close relative, but the specifics should be written in the employment contract.</li> </ul>
<p><b>Work-related Injury</b></p>	<ul style="list-style-type: none"> <li>• Work injuries are covered by statutory accident insurance as part of the national social security, and contributions are made according to income and risk assessment. The leave is compensated for the first six weeks of the injury.</li> </ul>

## Termination of Employment Contract

### Grounds for Termination

- Under German law, the employment relationship can be terminated by **mutual consent, by expiry** of a fixed-term contract **or by notice** given by one of the two parties.
- **Special protection** is provided to employees who generally face a greater risk of dismissal such as **handicapped or pregnant employees** and members of the works council.
- In such cases, the permission of relevant government authorities is required prior to issuing a termination.

### Regular Termination Requirements

- It must be communicated in writing.
- The period of cancellation (or “Kündigungsfrist”, which is usually mentioned in your contract) must be observed. If you cannot find it specified in your contract, the statutory period of cancellation designated in **§622 BGB applies** to you. The statutory **deadline depends on the duration of your employment**. The longer you have been in your company, the longer your notice period.
- If there is a **works council**, they **must be notified before** the dismissal.

## Separation Agreement

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- Due to the high standards of protection against dismissal, it is not uncommon for the employment to be **terminated by contract** between the employer and employee, i.e. a separation agreement. This may occur at any time **with or without severance payment**.
- Severance payments are made, for example, when the parties agree to one (in or out of court) to resolve a termination dispute or when the court decides that, despite the validity of the separation, continued employment would be intolerable for either the employer or the employee.

## Whistle-blower Laws

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- There is **no general legislation** covering whistleblowing in Germany.
- In general, **employees are obliged to report** any kind of misconduct within the company.
- In certain business sectors, special legal provisions exist, such as e.g. in the financial services sector.
- Whistle-blowers are not given any special protection against dismissals. Instead, they are subjected to the general rules, and such cases will be determined by whether the whistleblowing was “proportionate” (i.e. the employee should have reported the misconduct internally before going public or involving the authorities).

## Works Council

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- A works council can be elected in Germany in companies with **at least 5 employees** and is **decided exclusively by the employees**.
- The works council **represents the interests of employees vis-à-vis the employer**. For example, the works council is responsible for ensuring that:
  - Laws and collective agreements are observed,
  - Nobody is discriminated against based on their gender, age, origin, et cetera during the hiring and promotion process, and
  - Employees’ views regarding workplace improvements are implemented.
- The works council operates voluntarily, i.e. the **members do not receive additional compensation** for their activities. However, the tasks are carried out **during regular working hours**. Therefore, the employer must release the members of the works council for a certain number of hours.
- The **employer solely bears the costs** involved in maintaining the works council.
- **Dismissal is only possible for important reasons** and with the consent of the works council.

# Salary Payment

## Salary Payment and Deadlines

- The main purpose of **payroll** is to document the employee's salary entitlements in writing. This serves as proof of wages, or salary, and shows employees the **individual components** of their **net wage/salary**.
- An employee must be paid at least once a month.
- Employers must issue pay slips.
- Employers are obliged to **report withdrawn social security contributions** up until the **5th last bank day** of each month (25 October 2022) and **must pay** them up until the **3rd last bank day** of the current month (27 October 2022).
- The withdrawn **source tax** must be **reported and paid** until the **10th of the following month** (e.g. the latest date payable for October 2022 will be 10 November 2022).

## What are benefits in kind (Sachbezüge) in Payroll?

- A benefit in kind is a **benefit to the employee that does not consist of the transfer of wages**. However, it still offers the employee a "non-cash" advantage at better conditions than usual.
- Some important benefits in kind are:
  - €44 de minimis limit. Gifts up to a value of €44 per month remain tax-free for both parties (e.g. voucher).
  - Discount allowance up to €1,080 per year. Employees can claim free or discounted goods or services from their employer (e.g. staff purchases in retail).
  - Company events. An annual allowance of €110 per employee applies to attendance at relevant events (only applies if all employees can attend the event).
  - Childcare, Further education, Moving costs, Reimbursement of travel expenses, and Low-interest loans from employers.

## Payroll Calculation Methods

- Payroll calculations can be done **per calendar days or flat with 30 days**, it does not matter how many days the specific months has exactly.
- For example, an employee starts on the 10th of October 2022 and his salary would be EUR 5,000;

$$5,000 / 30 \text{ days} = \text{€}166.67 \text{ per day} * 22 \text{ days (10.10-31.10)} = \text{€}3,666.74$$

$$5,000 / 31 \text{ days} = \text{€}161.29 \text{ per day} * 22 \text{ days (10.10-31.10)} = \text{€}3,548.38$$

- Both variants are correct but have a different result.
- Health insurances always calculate with 30 days, does not matter which month it is.
- It can be that a labour agreement in a specific industry rules which option has to be used.

## Social Security Contributions

Social Insurance Component <sup>1</sup> (in % of gross wage)	Employer/Employee Share (in % of gross wage)
18.6% pension insurance	9.3% each from both employer and employee
14.6% health insurance <sup>2</sup>	7.3% each from both employer <sup>2</sup> and employee <sup>2</sup>
2.4% unemployment insurance	1.2% each from both employer and employee
3.05% nursing care insurance	1.525% each from both employer and employee <sup>3</sup>
1.14% accident insurance	1.14% from employer <sup>4</sup>

### Footnote

<sup>1</sup>Plus minor allocation

<sup>2</sup>Plus additional contribution

<sup>3</sup>Childless employees aged above 23 years pay an extra 0.25% nursing care insurance

<sup>4</sup>Specific regulations apply in the federal state of Saxony

## Source Tax

2022 German Income Tax Classes (Steuerklasse)	
Tax Class	Description
I	Those single or separated, but not falling into either category II or III
II	Single and separated, with a child, entitling them to a child's allowance
III	"Married", or "widowed employees who are within first year of a spouse's death"
IV	Married employees both of whom receive income
V	Married persons who would normally fall into category IV, but whose spouse is in tax class III
VI	Employees who receive income from other employment on other, or several different tax cards (Lohnsteuerkarte)

Most non-residents fall into either tax class I or III.

If both partners are working, then tax class IV will apply.

Reference here: <https://www.bbx.de/grossnet-wage-calculator-germany>



## Payroll Calculation

1	<b>Income Tax<sup>1</sup></b>	100% borne by the employee, withheld by the employer. Rate varies.	
2	<b>Church Tax</b>	100% borne by the employee. Rate varies by state, 8-9% of income tax. Applicable only to employees who are church members.	
3	<b>Solidarity Tax</b>	100% borne by the employee. Full rate 5.5% of income tax applies to persons of income more than €109,000. No deduction for incomes of up to €73,000.	
4	<b>Health Insurance</b>	Total: 14.6%	<b>Contribution assessment ceiling:</b> €4,837.50 per month
	<b>Nursing Care Insurance</b>	Total: 3.05%	50% borne by the employer and 50% by the employee.
	<b>Pension Insurance</b>	Total: 18.6%	<b>Contribution assessment ceiling:</b> €7,050 per month (West Germany) and €6,750 per month (East Germany)
	<b>Unemployment Insurance</b>	Total: 2.4%	50% borne by the employer and 50% by the employee.
5	<b>U1<sup>2</sup></b>	100% borne by the employer. Rate varies by health insurance (1% – 4.1% → reimbursement for employee's sick leave).	
6	<b>U2<sup>3</sup></b>	100% borne by the employer. Rate varies by the health insurance company (0.19% – 0.89% → continued payment of income in case of maternity).	
7	<b>Insolvency insurance</b>	100% borne by the employer (0.09% → in case of employer bankruptcy, the insurance company will pay the employee's salary for a maximum of 3 months).	
8	<b>Accident Insurance</b>	100% borne by the employer yearly. Rate varies by industry and individual employee's risks.	

### Footnote

<sup>1</sup>**Income Tax is an employee-only contribution.** In any German legal entity, it is the employer's responsibility to withhold tax from the employee's gross income and pay it directly to the tax office for all the company's employees (1-3).

<sup>2</sup>**U1 (reimbursement of sick leave expenses) applies to employers who employ no more than 30 full-time employees** or 40 part-time employees (equivalent to 20 full-time employees). Health insurance reimburses employers the sick leave pay to the employee, including the total social insurance contributions.

<sup>3</sup>**U3 (reimbursement of maternity leave expenses)** reimburses employers **regardless** of the number of employees they have, 6 weeks before and 8 weeks after childbirth. The subsidy amounts to the employee's gross income in addition to the employee's social security contributions during the protection period to compensate the company for the reduction in earnings that occurred due to the prohibition of employment.

## EOR (Employer of Record) vs AUG (Employee Lease)

Employer of Record (EOR) and the German Labour Leasing License (AUG) are often confused with one another by many based in Germany or want to hire within Germany. Below are the definitions for the two:

	EOR (Employer of Record)	AUG (Arbeitnehmerüberlassungsgesetz)
Definition	<ul style="list-style-type: none"><li>EOR is a <b>global employment service provider</b> that acts as the official employer for your employees <b>without opening an entity</b> in the country.</li><li>An EOR partner <b>takes on all the administrative duties and legal responsibilities</b> while you maintain full control of the employee's day-to-day activities.</li></ul>	<ul style="list-style-type: none"><li>AUG is a <b>labour leasing license</b> for any person or entity looking to hire <b>temporary or short-term positions</b> in Germany.</li><li>EOR mainly covers contractors. Labour leasing <b>does not apply to freelancers</b> as they are their own entities.</li><li>This is a common practice in Europe, but is <b>not used in the UK, the Netherlands, and Scandinavia</b>.</li></ul>
Durations	No limitations	Maximum contract duration is <b>18 months</b>

## Public Holidays

### National Holidays

Germany observes **9 national public holidays** across all states:

Public Holiday	Date
New Year's Day	1 January 2023
Good Friday	7 April 2023
Easter Monday	10 April 2023
Labour Day	1 May 2023
Ascension Day	18 May 2023
Whit Monday	29 May 2023
German Unity Day	3 October 2023
Christmas Day	25 December 2023
St. Stephen's Day	26 December 2023

# Employment & Immigration Regulations

## Business Visa

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- A Germany Business visa is a short-stay **Schengen** visa, which permits its holder to enter and remain in Germany up to **90 days within 6 months** unless it is not specified differently in the visa sticker.
- It is issued to people who come to Germany to perform business making, attend meetings, sign contracts, etc.
- If you require a Business Visa, contact the German Embassy / Consulate near your hometown, or visa application centre if available.
- Application from: <https://videx.diplo.de/videx/desktop/index.html#start>

## Germany Working (Employment) Visa

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- The Germany Employment Visa is an **opportunity for qualified foreigners** to settle in Germany and work in their fields. It gives its holder the chance to enter and work in Germany for **up to 2 years**, with the possibility of extending the visa and later **applying for an EU Blue Card**.

## EU Blue Card Germany

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- The German EU Blue Card is a **German residence permit for work**, issued to non-EU nationals who have a university education and will work in skilled positions in Germany.
- The EU Blue Card in Germany is **valid for up to 4 years**.
- If you have a **limited contract**, your work VISA is valid for the **duration of your work contract plus an additional 3 months**. During this time, you can find a new contract that meets the requirements.
- If your **contract** is indefinite or **longer than 4 years**, you can **renew** the German EU Blue Card.
- **Benefits for Family Members** - Once you have successfully obtained a German EU Blue Card, your family will also be eligible to live and work in Germany under a regular work VISA, but with fewer restrictions.

## EU Blue Card Germany Application

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You can apply for a German Blue Card if you meet the following criteria:

- **University or Master's Degree** - Depending on the type of job, a minimum of a university degree is required.
- **Work Experience** - You need at least 5 years of work experience.
- You must have a **concrete job offer** from a German employer and must submit a signed work contract, which states the position and the salary you are being offered.
- Your **salary** is in 2022 at least gross €56,400.
- Some of the most demanded professionals are: Architects and interior designers, Engineers, IT specialists, Mathematicians, Health professionals, Scientists, etc.

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# Around the World with BIPO

## Brunei

1–4 December  
Local Product Expo 2022



## Singapore

3–4 December  
Standard Chartered  
Singapore Marathon 2022



## Germany

6 December  
Understanding Germany's Labour Laws  
and Employment Regulations with  
Laurent-Pierre Sans & Sven Haase



## Laos

21–25 December  
Laos Digital Week 2022



## About BIPO

Established in 2010 and headquartered in Singapore, BIPO is a global payroll and people solutions provider.

Our enterprise-ready **HR Management System** automates HR processes, simplifies workflows, and delivers actionable insights. Complemented by our **global payroll outsourcing** and **Employer of Record (EOR)** services, we support your global workforce needs through a network of 40+ offices, four R&D centres, and business partners in 100+ markets.

Connect with our experts today: [hello@biposervice.com](mailto:hello@biposervice.com)

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