

# BIPO Work Guide

Germany | October 2023

## Advice

By means of this document, BIPO Service Germany would like to inform all our employees and candidates about the general terms regulating employment and related matters in Germany, as well as to be able to solve any doubts that may arise at first instance about how the country works.

The aim is that the employee as well as the client is aware of the principles of labor legislation that often and in comparison to many other European countries, provides greater protection to the employee. That entails with a higher risk possible slight financial and operational risk to the company and to the employer/employee.

In all host contracts that BIPO Service enters into with foreign companies, the ultimate responsibility for the employment and, therefore, these risks, lies with the foreign employer.

## Introduction Into Germany and His Law

German employment law is divided into two areas: individual employment law and collective employment law. Individual employment law concerns relations between the individual employee and the employer, while collective employment law regulates the collective representation and organisation of employees as well as the rights and obligations of employees' representatives.

German employment law is not consolidated into a single labour code: the main sources are Federal legislation, case law, collective bargaining agreements, works council agreements and individual employment contracts.

## Overview

In Germany, workers have fundamental rights to ensure fair and safe working conditions. From minimum wage to equality and non-discrimination, these rights seek to protect the dignity and well-being of employees in the workplace. Their enforcement is crucial to an equitable society and a healthy work environment.

In this guide, we will explore some of the fundamental rights that workers in Germany have won over time.

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# 1 | Social Security System

## Social Security

In marked contrast to some other industrialized countries, core social security provision in Germany is financed collectively by means of a process of redistribution.

The current social security costs (e.g. for pensioners, sick people and/or those in need of nursing care and unemployed people) are paid directly from contributions by employees and employers.

Social security contributions are made up of:

- Health insurance
- Nursing care insurance
- Pension insurance
- Unemployment insurance
- Accident insurance

Generally speaking, social security contributions are roughly shared equally by employer and employee. Only the costs for accident insurance are exclusively borne by the employer.

Common funds exist for all social security components. Only the statutory public health insurance provider can be chosen individually by the employee. Employees can also choose to opt out of the statutory health insurance in favour of a private health insurance scheme subject to satisfaction of a minimum monthly gross salary level.

## International Coordination of Social Insurance Systems

In order to facilitate the international transfer of employees, Germany has signed social insurance agreements with countries including e.g., Australia, Brazil, Canada, China, India, Israel, Japan, South Korea, Turkey, and the USA.

Within the EU, the dispatch of employees is facilitated by EU regulations on [social security coordination](#). This allows transferred employees to remain within the national social insurance of their home country, if they are posted to Germany for a certain time. In this case, the employer does not have to pay German social security contributions for the employees temporarily located in Germany.



# 1 | Social Security System

## Prevention of Labour Risks

Statutory accident insurance provides coverage if an employee suffers an accident at the workplace or on the way to work.

In contrast to the other four obligatory forms of insurance, the costs for accident insurance are exclusively borne by the employer.

All employers must inform the relevant statutory accident insurance association (Berufsgenossenschaft) about the establishment of their business and register with this organization.



The accident insurance rate is determined on the basis of the company's total remuneration sum and the hazard category of the work concerned (the hazard category is determined by the relevant accident insurance association).

According to the German Social Accident Insurance (DGUV), the average accident insurance contribution in 2021 was 0.96 percent. DGUV provides detailed information on the individual [calculation of accident insurance contributions](#) online.

## Sick Leave

When you are sick and unable to work, you are entitled to rest at home. However, your employer has the right to demand proof; i.e., confirmation of illness/unfitness for work - which you can obtain from a doctor. Colloquially, such a document is known as "Krankschreibung" (sick note), but the official term for it is "Arbeitsunfähigkeitsbescheinigung" (certificate of unfitness for work) or -for short- "AU".

### **Sick leave due to common illness or non-occupational accident:**

1. Granting on hire date: 0 paid days for the first 4 weeks of employment, from the 5th week of employment, Employer must cover 6 weeks (42 days) per case.
2. If you are on sick leave for more than 6 weeks, you will receive sick pay ("Krankengeld") from your health insurer instead of your salary. The amount of sick pay you receive will 70% of your last wage.

### **Sick leave due to an accident at work or occupational disease:**

1. In the event of an accident at work or an occupational disease, the employer's accident insurance will pay 80% of the regulatory base from the first day of sick leave.
2. The maximum coverage is 78 weeks.



# 1 | Social Security System

## Maternity and Paternity Leave

### **Maternity (Mutterschutz):**

Every woman who is pregnant or breastfeeding may go on maternity leave as long as they work in Germany or work abroad under a German contract, regardless of marital status or nationality and is legally entitled to fourteen weeks off as maternity leave – at least six weeks before and eight weeks after childbirth. Full salary is paid during Mutterschutz.

You can extend your leave up to 12 weeks if you have a premature, caesarean, or multiple births, or if your child is born with a disability.

The job protection (Kündigungsschutz), protects you against dismissal from the moment your pregnancy begins until up to four months after childbirth and can be extended if you apply for parental leave.

### **Parental (Elternzeit):**

Parents have a right to parental leave until their child has reached the age of three years. Up to 12 months of the parental leave can be transferred to the time between the child's 3rd and 8th birthday. Parental leave can be divided between the parents or be taken by one parent and a parental allowance, known as Elterngeld, is provided.

### **Paternity (Vaterschaftsurlaub) applicable from 2024:**

Fathers can take up to 10 days of paternity leave. Full salary is paid during Vaterschaftsurlaub.



# 2 | General Labour Law

## Minimum Wage

As of October 1st, 2022, the minimum wage in Germany is EUR 12,00 per hour. The government has declared that the minimum wage will remain stable for the next 15 months, and they will only reassess it in January 2024 (EUR 12,41) and January 2025 (EUR 12,82).

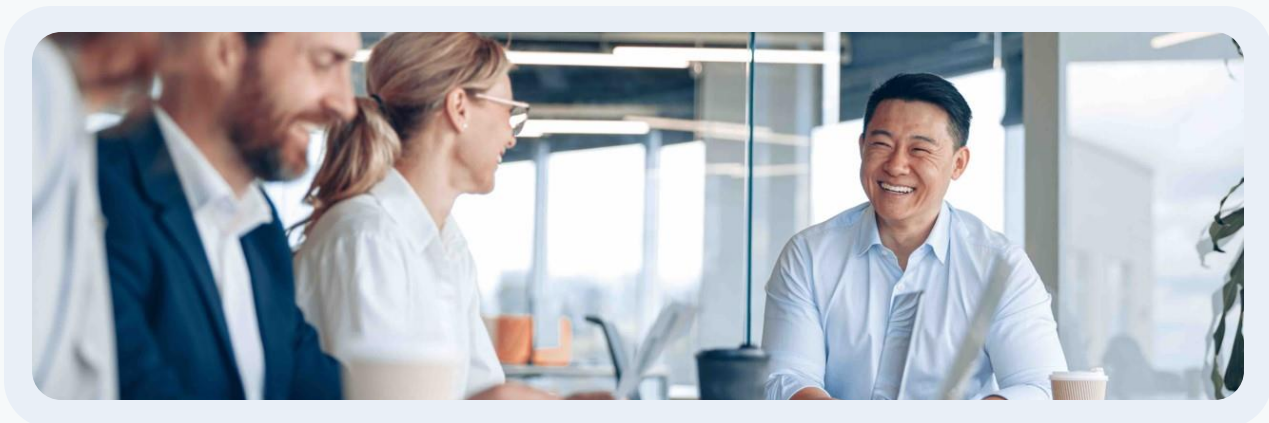
As in any other part of the world, Germany also struggles to decrease the gender pay gap. Although there are a lot of initiatives in Germany to breach the gap, studies still show that men earn more than women. On average, men earn 49.752 euros a year (gross), and women 42.936 euros a year (gross).

## **What Is Your Purchasing Power With Your Salary In Germany?**

The most popular purchasing power parity ratio is the Big Mac Index. So how can you use the price of a burger to figure out your purchasing power in Germany?

Find the price for the [Big Mac in US dollars](#) in your country. I've gathered a selected list below:

USA	US\$ 5,15
UK	US\$ 4,48
India	US\$ 2,34
Mexico	US\$ 3,67
Turkey	US\$ 2,50
Germany	US\$ 5,00



## Working Hours

Although the average full-time employee works anywhere from 35-40 hours a week, it is possible to work as much as 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 working a 6–9-hour day is entitled to a 30-minute break and must have at least 11 hours between shifts.

# 2 | General Labour Law

## Annual Leave

According to the Federal Holidays Act, all employees in Germany with a 5-day week are entitled to a minimum of 20 vacation days per year. Most collective agreements, however, include entitlements to larger numbers of days. The average in Germany should be 30 days / year.

Date	Date	Holiday Name	German Name	Type	Comments
Sunday	Jan 01	New Year's Day	Neujahrstag	Public Holiday	-
Friday	Apr 07	Good Friday	Karfreitag	Public Holiday	-
Monday	Apr 10	Easter Monday	Ostermontag	Public Holiday	-
Monday	May 01	Labour Day	Tag der Arbeit	Public Holiday	International Worker's Day
Thursday	May 18	Ascension Day	Christi Himmelfahrt	Public Holiday	39 days after Easter Sunday
Monday	May 29	Whit Monday	Pfingstmontag	Public Holiday	7 <sup>th</sup> Monday after Easter
Tuesday	Oct 03	German Unity Day	Tag der Deutschen Einheit	Public Holiday	National Day
Monday	Dec 25	Christmas Day	Weihnachstag	Public Holiday	-
Tuesday	Dec 26	St. Stephen's Day	Zweiter Weihnachtsfeiertag	Public Holiday	Second day of Christmas

In addition to national holidays, each state has the ability to establish its own regional holidays, which means that there may be additional holidays in certain regions.

# 2 | General Labour Law

## Remote Working Contract and Allowance

### **Is there any legislation relating to working from home?**

No specific legislation relates to work from home in Germany, at least not in the sense of an overall codification. However, isolated provisions concerning work from home or also mobile work can be found in individual laws (e.g. co-determination right of the works council on mobile work stipulated in § 87 (1) No. 14 BetrVG (German Works Constitution Act)).

### **How can working from home be implemented in a company?**

The most common are additional agreements to employment contracts and works council agreements.

### **Can an employer force an employee to work from home?**

If the employment contract determines a certain place of work (e.g., the employer's business premises in a certain city) and the implementation of work from home is not explicitly included in the employment contract, it is not possible to force an employee to work from home.

### **Can an employee force an employer to allow them to work remotely?**

No. Employees do not have a right to work from home (e.g., remotely).

### **Does an employer have to grant an employee a specific allowance for working from home?**

The employer is not obliged to pay any allowances or lump sums for the work from home. The employer is generally obliged to provide the required working equipment and/or reimburse employee's spendings.

### **What is Home Office Allowance in Germany**

You may claim EUR 6 for each working day (maxi 210), if you spent minimum 50% of your worktime at home.



# 2 | General Labour Law

## German Contracts

The following types of employment contracts can be provided by BIPO:

- Permanent Employment Contract
- Fixed Term Contract
- Labor Lease Contract

When looking to hire employees in Germany, there are a few key requirements that employers should know to remain compliant with German labour and employment law.

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.

**As a general rule, the employment contract is entered into for an unlimited period.**

A fixed-term contract is possible and ends automatically without written notice at the end of its term.

A fixed-term employment relationship must be justified by objective grounds, some of which are set forth in statutory law (e.g. temporary increase in work volume, substitution of an employee during parental leave).

If no objective grounds exist, the fixed-term employment is limited to a maximum duration of two years, provided that no previous employment contract with the same employer existed.

If the parties continue the employment after the expiration of the fixed-term contract, the agreement is deemed to be concluded for an indefinite period.

# 2 | General Labour Law

## Probation Period

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

# 3 | Terminations



We strongly advise our clients to immediately inform their BIPO operations contact of any conflict or event that may eventually result in the need to terminate or dismiss a candidate, so that a joint strategy can be developed to achieve this with the least possible harm to the parties.

## 1. 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.

## 2. Regular termination must meet the following 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.

## 3. Separation Agreements

- 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 paid e.g., the parties agree upon a severance payment (in or out of court) to settle a termination dispute, the court dissolves the employment against payment of severance if it finds that despite the invalidity of the termination, continued employment would be intolerable either for the employer or the employee.

# 4 | Payroll Regulations

## Payroll Deadlines

- The main purpose of **payroll** is to record an employee's salary entitlement in writing, which then provides proof of wages or salary and shows the employee the **individual components of his or her net wage/salary**.
- Employee must be paid at least once a month.
- Employer must provide a payslip.
- Employer is obliged by law to **report** the withdrawn **social contributions** until the **5th last bank day** (August 25th, 2023) of each month and must **pay** them **until the 3rd last bank day** of the current month (August 28th, 2023).
- The withdrawn **source tax** must be **reported and paid until the 10th of the following month** (e.g., August 2023 latest the 11th of September 2023).

## 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 August 2023 and his salary would be EUR 5,000.
  - $5,000 / 30 \text{ days} = \text{EUR } 166.67 \text{ per day} * 22 \text{ days (10.08.-31.08.)} = \mathbf{3,666.67 \text{ EUR}}$
  - $5,000 / 31 \text{ days} = \text{EUR } 161.29 \text{ per day} * 22 \text{ days (10.08.-31.08.)} = \mathbf{3,548.39 \text{ EUR}}$
- Both variants are correct but have a different result.
- The 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.

## Germany Statutory Employer's Responsibilities 2023

Social Insurance Components (In % of gross wage)	Employer / Employee Share (In % of gross wage)
18,8% pension insurance	9,3% employer / 9,3% employee
14,6% health insurance	7,3% employer / 7,3% employee
2,6% unemployment insurance	1,3% employer / 1,3% employee
3,4% nursing care insurance	1,7% employer / 1,7% employee
0,96% accident insurance	0,96% employer



# 4 | Payroll Regulations

## Additional contributions born by the Employer alone

**Income tax is an employee-only contribution.**

- In any German legal entity, it is the employer's responsibility to withhold the tax from the employee's gross income and to pay it directly to the tax office for all the company's employees.

### **U1 – reimbursement of sickness expenses (sick leave pay)**

- The reimbursement procedure U1 applies only to employers who employ no more than 30 people as a rule. Part time employees will be taken into account according to their regular weekly working hours on a factor of 25% per each 10 hours per week.
- The health insurance reimburses employers sick leave pay to the employee incl. total Remarks:
- social insurance contributions.

### **U2 – reimbursement of maternity expenses (maternity leave pay)**

- Reimburses employers regardless of the number of employees periods before and after childbirth (six weeks before and eight weeks after).
- The subsidy amounts to the employee's net payment during the protection period. The employment compensation paid to compensate for a reduction in earnings occurring due to the prohibition of employment. This subsidy amounts to the gross payment plus employer's social security contributions.

## Remarks:

### **Nursing Care Insurance**

**Employees older 23 years** old without children have to pay an additional 0.6% (employee only)

of the nursing insurance contribution:

- EE's with 1 child pay the regular contribution of 3,4% (1,7% ER & 1,7% EE)
- EE's with 2 - 5 children pay -0,25% from the regular contribution

Maxi deduction has reached with 5 children -1,0% from the regular contribution

# 5 | Work permits

In this section we will discuss the two most common work permits in Germany for companies working in either EOR or GPO mode.

## Introduction

Germany has been deemed as the fifth most favourable country to move to. This favourability is due to its well-performing economy, education system, and employment opportunities.

To immigrate to Germany, you will need a valid reason.

## Business Visa

- 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

- 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 two years**, with the possibility of extending the visa and later applying for the EU Blue Card.

## EU Blue Card Germany

- 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 four 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 four 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.



# 5 | Work permits

## EU Blue Card Germany Requirements

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 2023** at least gross **€58,400**
- Some of the most demanded professionals are: Architects and interior designers, Engineers, IT specialists, Mathematicians, Health professionals, Scientists, etc.

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# FOR MORE INFORMATION

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