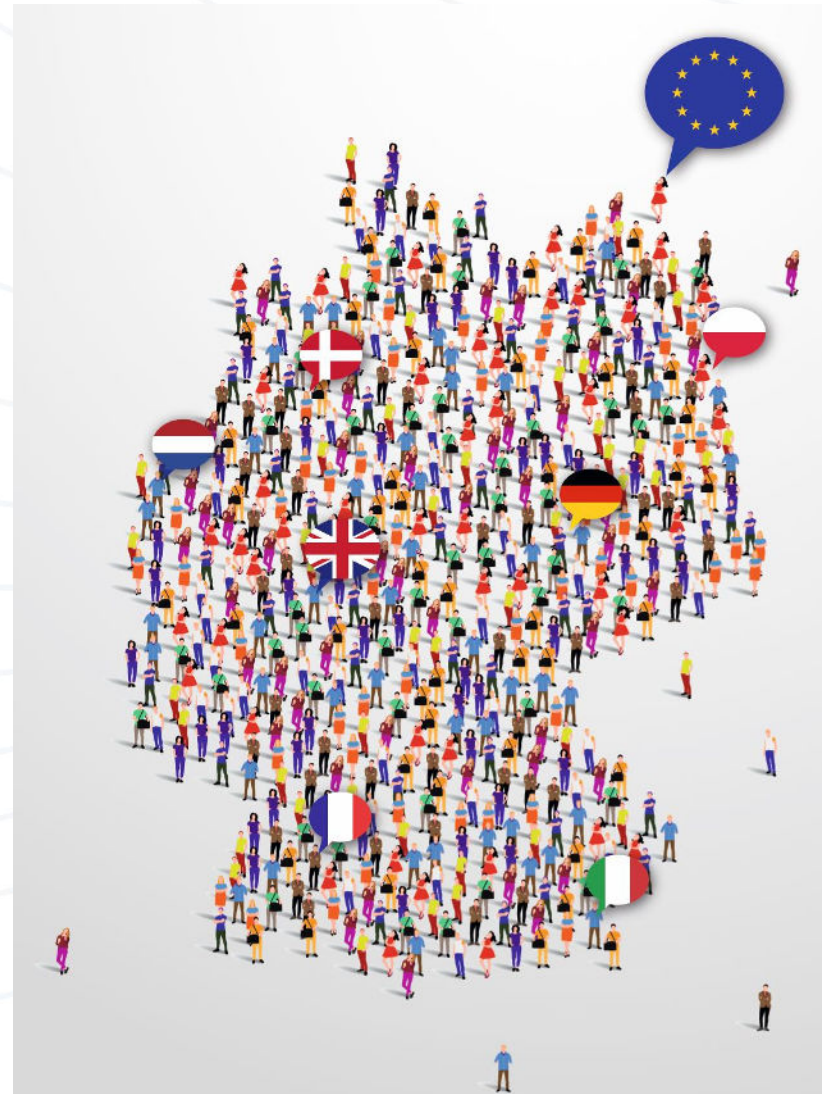


Your Labour Rights

- what you need to
know in Germany

Part 2
Relevant legal regulations
besides the individual contract



Introduction



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Willkommen bei KAAT.net

Hier findest du Informationen für Kaufleute, Akademiker*innen und AT-Beschäftigte, die schon Mitglied bei der IG BCE sind oder es noch werden wollen. KAAT.net ist unsere Einladung an euch, gemeinsam eure Themen aus der Arbeitswelt zu gestalten.

www.kaat.net



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Seminare, z.B. Arbeiten in internationalen Unternehmen

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Workshops, Flyers (in English)



04./05.07.2025 – 5. KAAT-Dialog

Also available in English!

Agenda

Works council/ co-determination – **Betriebsrat/ Mitbestimmung**

Tasks of the works council

Co-determination according to §87 BetrVG

Introduction to collective bargaining law/ **Tarifvertragsrecht**

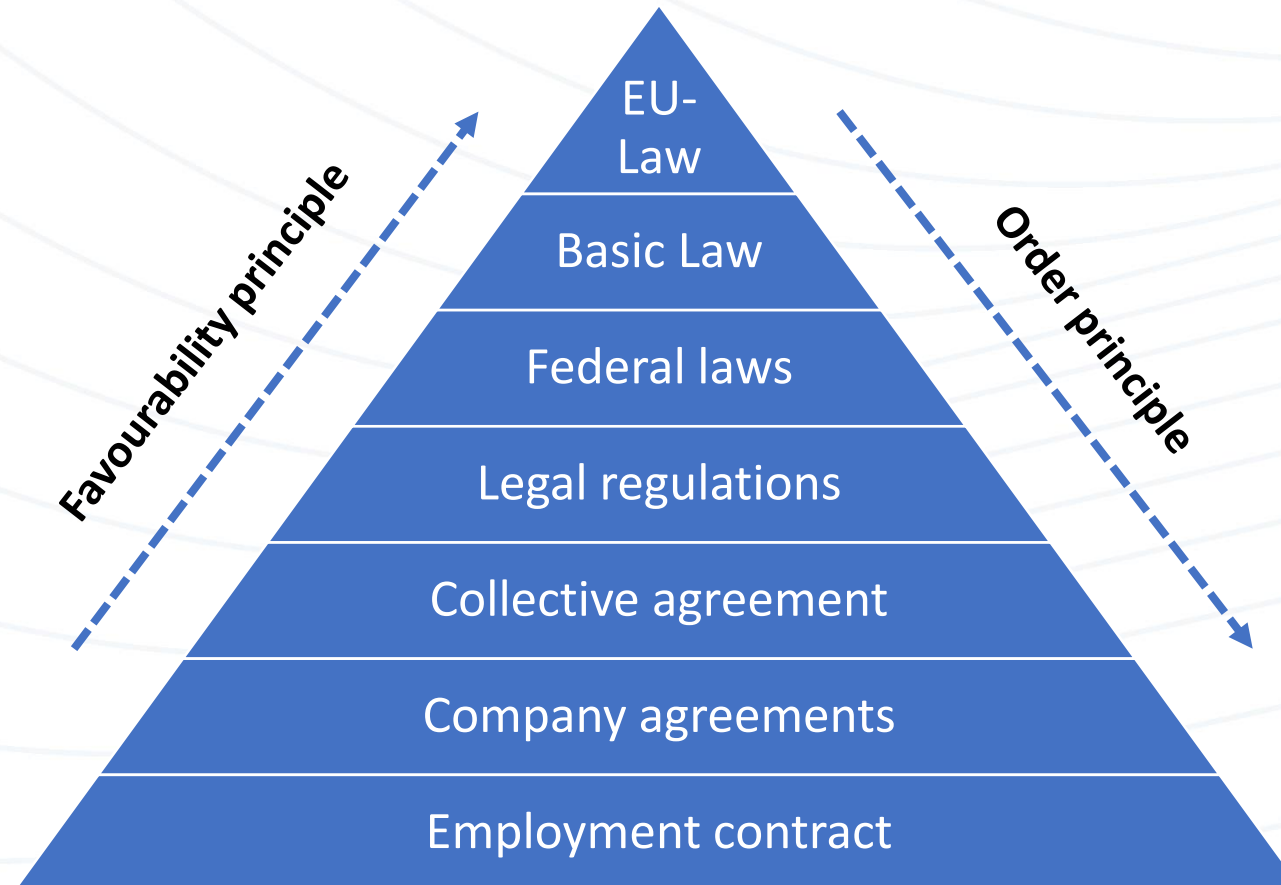
Collective bargaining/ **Tarifverhandlungen**

Relationship Tariff – non-Tariff

BR – Talk with Horatio Meyer, Bayer AG

Questions and answers

Pyramid of laws



What is a works council/ Betriebsrat (BR)?

- Regulated by the [Works Constitution Act \(Betriebsverfassungsgesetz, BetrVG\)](#): in every company with (roughly speaking) more than 5 employees, they have the **right to elect a BR**.
- **Represents** the interests of the employees (AN- Arbeitnehmer) towards the employer (AG- Arbeitgeber).
- BR **can coinfluence** certain company decisions.
- BR has **rights and duties**.
- The employer and the works council are **obliged to cooperate** in a spirit of trust for the benefit of the employees and the company (§ 2 BetrVG).
- The **size of the BR** depends on the number of employees in the company who are entitled to vote.

Tasks of the works council §80 BetrVG

Monitoring

Compliance with all regulations applicable in the company:

Laws, regulations, accident prevention regulations and company agreements (BVs)

Protection

Support for particularly vulnerable persons, e.g. severely disabled, older or foreign employees

Monitoring compliance with occupational health and safety and accident prevention regulations

Shaping

Receipt of suggestions and complaints from employees and members of the JAV

Requesting and enforcing measures with the employer

Promotion

Enforcement of the actual equality of men and women

Promoting the compatibility of family and work

JAV Election

Promoting and securing jobs

Promotion of corporate environmental protection

QUESTION 1

- Have you ever had contact with your BR?
 - Yes, at a staff meeting.
 - Yes, I went directly to the BR.
 - Yes, I was personally approached by the BR.
 - No, I haven't had any contact yet.

Participation rights

PARTICIPATION RIGHTS

- Information rights
- Hearing rights
- Consultation rights

AG must involve BR in the decision-making process, but ultimately remains free to make his own decision

CO-DETERMINATION RIGHTS

- Requirement of Consent
- Enforceable co-determination
- Right of initiative

The Works Council has a right to refuse consent or consent is required.

Co-determination rights - §87 BetrVG

Social Affairs

For example:

- Order of the enterprise
- Working time regulations
- Paid leave regulation
- Remuneration
- Technical control devices
- Occupational health and safety

Personnel Affairs

For example:

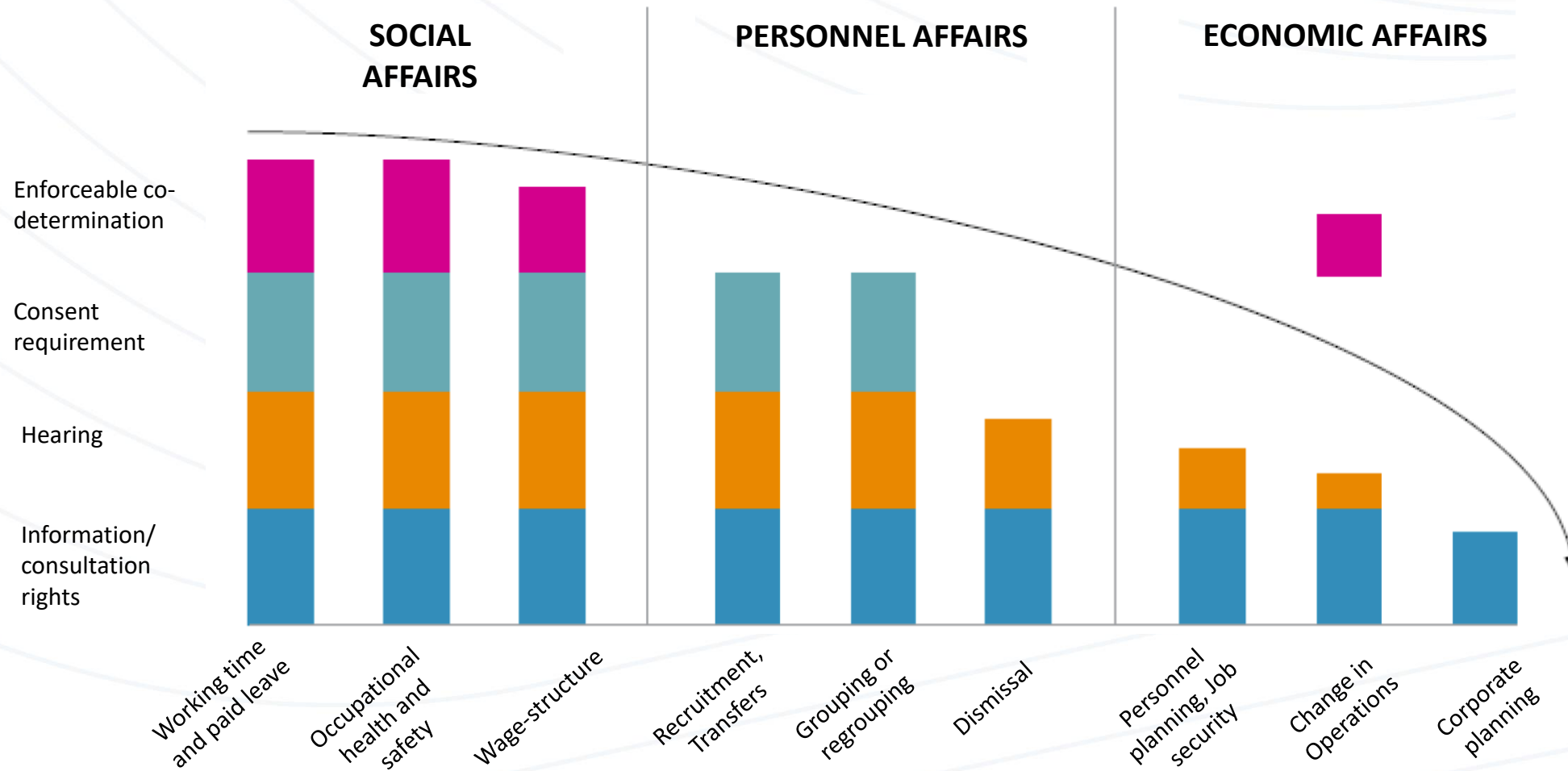
- Recruitment, grouping or regrouping
- Behavioural or personal dismissal
- Human resources development
- Selection guidelines
- Questionnaires/
Assessment principles

Economic Affairs

For example:

- Relocation of the operation
- Change in the operational organisation
- Closures
- Staff reduction
- Reconciliation of interests/
social plan

Co-determination curve



Introduction to collective bargaining law

- **Parties to collective agreements:** Trade unions, employers, employers associations (§2 TVG)
- **Contents:** Rights and obligations of the parties. Legal norms that can regulate the content, conclusion and termination of employment relationships as well as company and works constitution law issues. (§1 TVG)
- **Collective bargaining obligation:** All members of the parties to the collective agreement and the employer who is party to the collective agreement (§3 TVG).
- **Tariff autonomy:**
 - Right of independent regulation of working and economic conditions through collective agreements.
 - It is a special right of labour market associations (trade unions, employers' associations) and is based on Article 9 (3) of the Basic Law (**Grundgesetz**): Right to form associations to safeguard and promote working and economic conditions.

Balance of power in negotiations



For trade union members, the tariff is binding and cannot be overridden by a contract amendment.

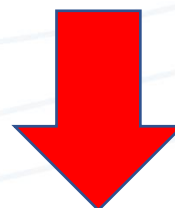
Why collective agreements?

Employees:

- Creation of minimum standards
- Increase in income
- Better and sustainable working conditions
- Design of the entire working life
- Regulating development and participation
- Improvement of legal framework conditions
- Safeguarding jobs
- Exclusion of company and inter-company competition between employees
- Balancing different company strengths within the same industry (comparability)

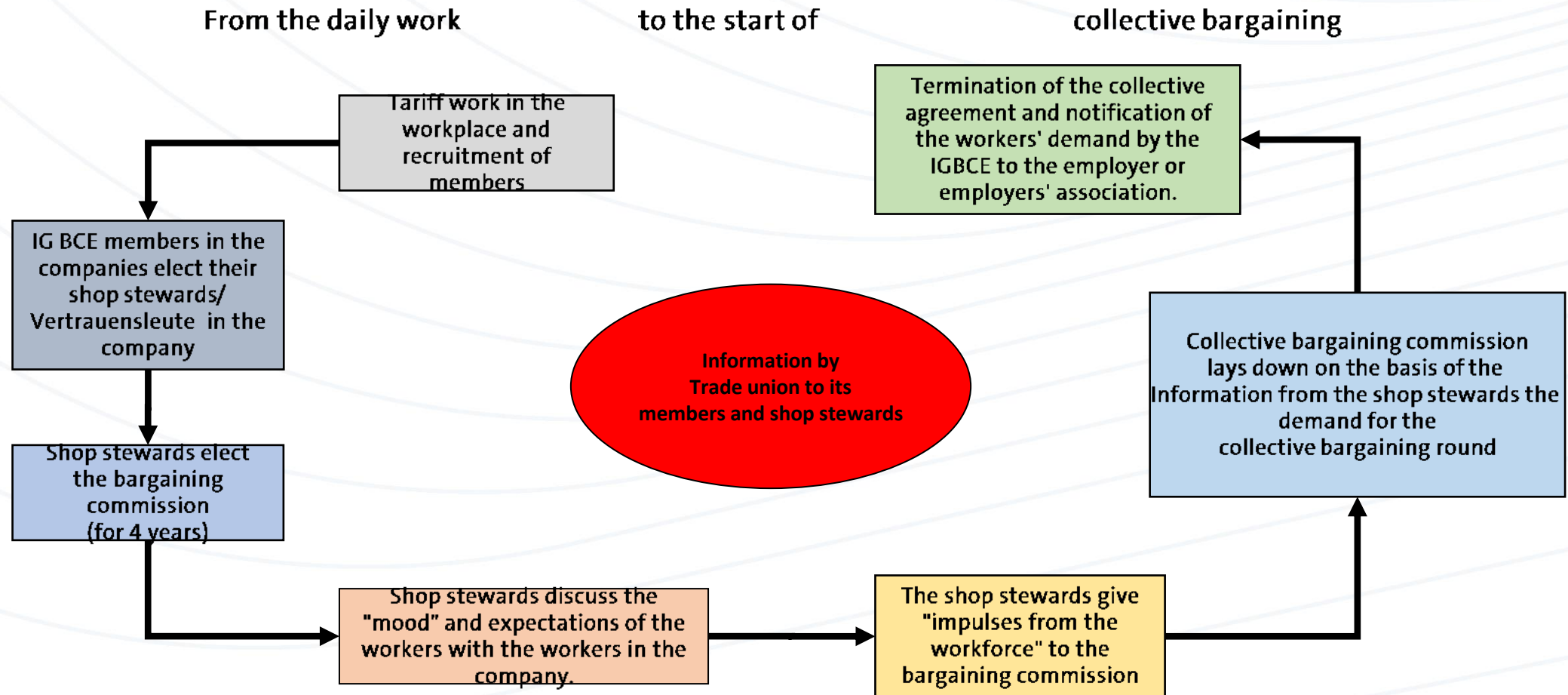
Employers:

- Social peace in the workplace
- Attractiveness as an employer
- Maintaining consistent (planable) personnel costs
- Creation of framework conditions
- Exclusion or regulation of high employee turnover due to competition and poaching
- Shaping the legal framework
- Balancing different company strengths within the same industry



**Compromise = collective
agreement**

Collective bargaining



QUESTION 2

- Do you know any collective agreements that are relevant to you?
 - Yes.
 - No, I do not know of any collective agreement that is relevant to me.
 - No, I don't know any collective agreement at all.

Paygroups in the Chemical & Pharmaceutical Industry

- **Job Description:** Pay class (**Entgeltgruppe**) is based on tasks, responsibilities, and job complexity as per the collective bargaining agreement (**Tarifvertrag Chemie**).
- Chemical industry has **13 pay classes (E1-E13)**, the higher the pay class the higher the earnings.
- **Jobs/positions** are categorised, not people. The criterion is the level of skill required for the activities/tasks of the position.
- **Seniority & Experience:** Experience levels in higher pay classes from E7 onwards, goes automatically upwards with time.
- **Important: Your salary and pay class is based on the job you do and not your personal qualification!**

What does this have to do with me? - I am AT!

Definition: Non-tariff employees/ **außertariflich Beschäftigter**:

- Caution: Allowances above the pay scale do not make you an AT employee.
- Collective agreement regulates when an employee is an AT employee – different in every industry.

§ 1 (2) Manteltarifvertrag Chemical Industry (MTV Chemie)

1. Employee needs an AT employment contract.
2. Employee must be grouped in AT with the participation of the BR according to §99 BetrVG.
3. Employee works in a position that is more demanding than an E13 position.
4. The working conditions of the employee must exceed the value of the working conditions of an E13 employee.

→ Only when all 4 criteria are met the employee is AT/ non-tariff.

→ Working conditions also include the total working time.

→ Only unionised AT employees have a legal claim to the conditions fixed in the Tarifvertrag (TV).

(BAG 11.2.1998 - 5 AZR 127/97; BAG 21.6.2000 - 5 AZR 793/98)

Relationship tariff – non- tariff

- **Pay scale:** AT pay must be higher than the pay of the highest pay scale level, seen as a whole per year. → LAG Rheinland-Pfalz (2 Sa 114/21) 27.01.2022
- Remuneration of the highest pay scale level **includes:** Monthly pay, annual benefit, holiday pay, basic pension amount, etc, and also **working hours.**
- The **annual AT benefits** are considered as a whole, too, incl company car, insurance etc.
- AT payment systems can be regulated in **company agreements** → no collision of collective agreements because MTV allows it.
- **Collision of the remuneration systems** collective agreement (TV) and AT is to be prevented.
- But there is a clear connection between TV pay and AT pay! → **If the collectively agreed remuneration increases, the AT remuneration has to increase, too.**



QUESTIONS & ANSWERS

- Concrete questions about the content presented?
- Anything that you did not understand?
- Anything that we should clarify?

- Which topics are generally of interest to you?
- Which topics are relevant in your current work situation?



Useful links

- Comparison of AN - rights in Europe: <https://worker-participation.eu/National-Industrial-Relations/Compare-Countries>
- AT remuneration flyer: <https://kaat.net/wp-content/uploads/2020/10/E8-englisch-AT-Vergu%CC%88tung-final.pdf>
- KAAT Newsletter: <https://kaat.net/newsletter/>
- Membership form in various languages and Service Brochure: <https://igbce.de/igbce/mitglied-werden-2026> (scroll down)
- Social Security at a Glance (English): <https://www.bmas.de/EN/Services/Publications/a998-social-security-at-a-glance.html>
- CareFlex brochure: <https://igbce.de/igbce/themen/careflex-chemie/careflex-chemie-49306> (scroll down)
- You can find many laws in an official English translation online at the Federal Ministry of Justice: https://www.gesetze-im-internet.de/Teilliste_translations.html





» Online Workshop 3

Social security systems in Germany – How do they affect me as an employee

When: 04/12/2024, 18:00–19:30

In part 3 of our series we will give you a brief overview of the complex German social security system. We will point out the benefits that are most relevant to your professional life.



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