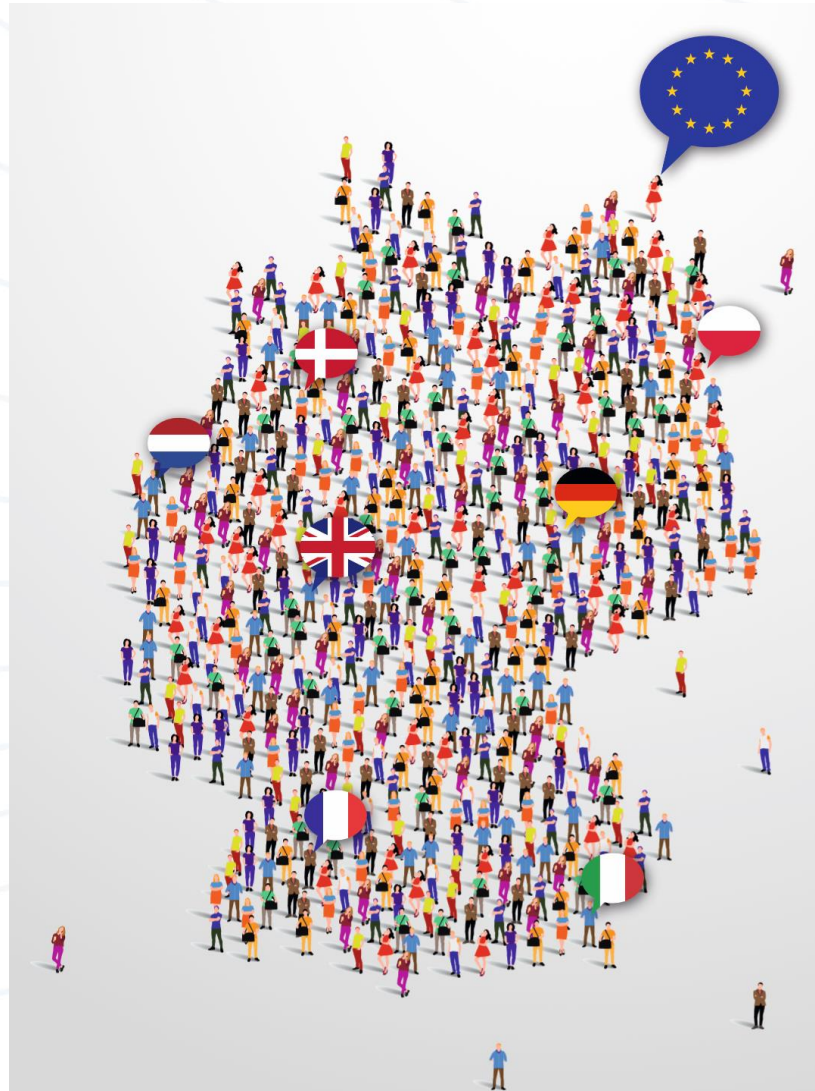


Your Labour Rights

- what you need to
know in Germany

Part 1
Individual Labour Law-
My rights as an employee



Introduction



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IGBCE at a Glance



- IGBCE is the German trade union for the mining, chemical and energy sectors
- 600.000 members, 1.000 local groups, 900 entities in workplants
- Nationals from 99 countries

Our Special Service for

KAUFLEUTE



COMMERCIAL

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AT-BESCHÄFTIGTE



NON-TARIFF

Agenda

- German Labour Laws
- Employment contract
- Paid Leave entitlement/ **Bezahlter Urlaub**
- Working hours/ Overtime
- Maternity Protection, Parenting time and grants/ **Mutterschutz, Elternzeit & Elterngeld**
- Dismissal/ Protection against dismissal (brief)/ **Kündigung & Kündigungsschutz**
- Questions and answers

In German labour law, there is no uniform "labour law or code".

Rather, various legal frameworks affect the employment relationship.

Occupational health and safety law

- [Arbeitnehmer-Entsendegesetz \(AEntG\)](#)
- [Arbeitsschutzgesetz \(ArbSchG\)](#)
- [Arbeitszeitgesetz \(ArbZG\)](#)
- [Bundesdatenschutzgesetz \(BDSG\)](#)
- [Jugendarbeitsschutzgesetz \(JArbSchG\)](#)
- [Mutterschutzgesetz \(MuSchG\)](#)

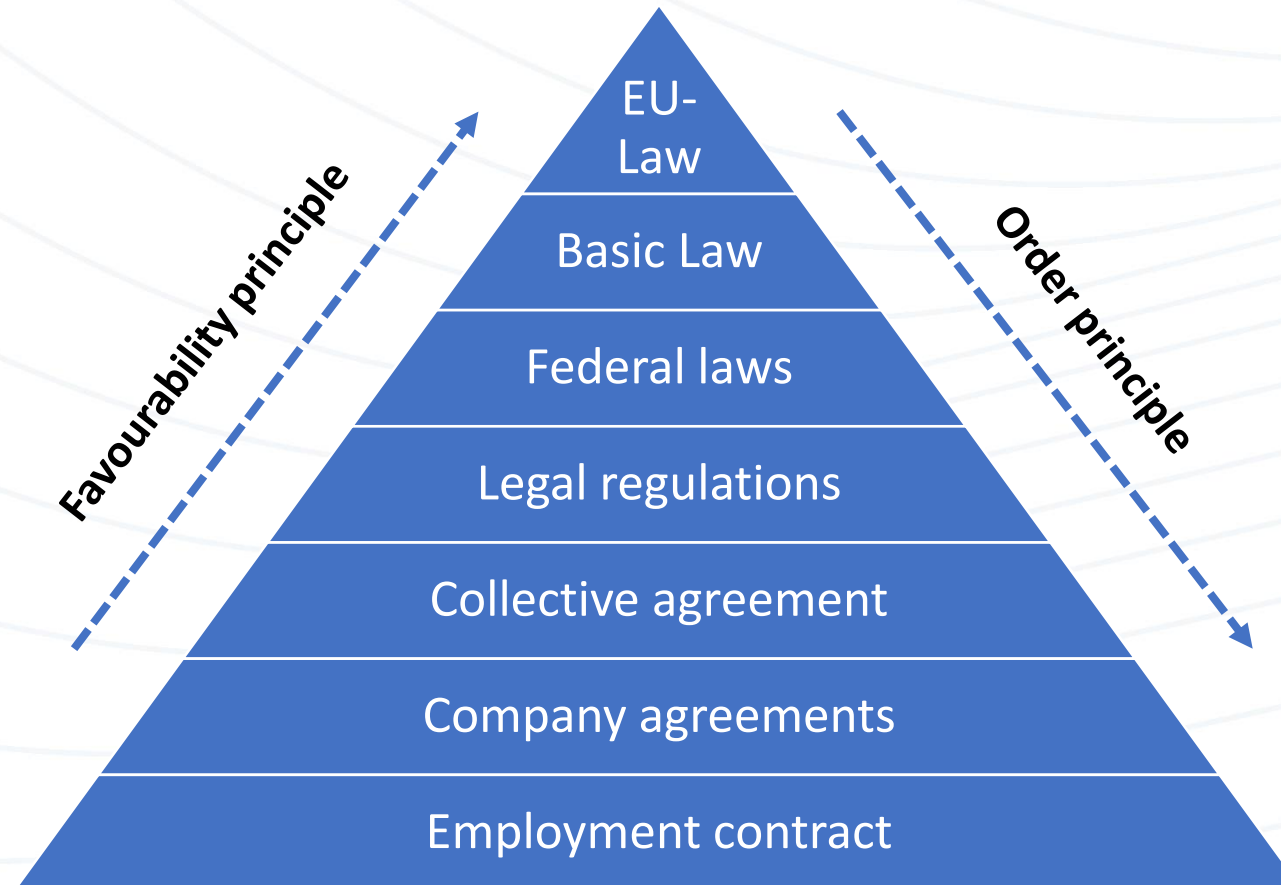
Social law

- [Erstes Buch Sozialgesetzbuch- Allgemeiner Teil \(SGB I\)](#)
- [Zweites Buch Sozialgesetzbuch - Grundsicherung für Arbeitsuchende - \(SGB II\)](#)
- [Drittes Buch Sozialgesetzbuch - Arbeitsförderung - \(SGB III\)](#)
- [Viertes Buch Sozialgesetzbuch - Gemeinsame Vorschriften für die Sozialversicherung - \(SGB IV\)](#)
- [Fünftes Buch Sozialgesetzbuch - Gesetzliche Krankenversicherung - \(SGB V\)](#)
- [Sechstes Buch Sozialgesetzbuch - Gesetzliche Rentenversicherung - \(SGB VI\)](#)
- [Siebtes Buch Sozialgesetzbuch - Gesetzliche Unfallversicherung - \(SGB VII\)](#)
- [Neuntes Buch Sozialgesetzbuch - Rehabilitation und Teilhabe von Menschen mit Behinderungen - \(SGB IX\)](#)

Individual labour law

- [Allgemeines Gleichbehandlungsgesetz \(AGG\)](#)
- [Arbeitnehmerüberlassungsgesetz \(AÜG\)](#)
- [Berufsbildungsgesetz \(BBiG\)](#)
- [Betriebsrentengesetz \(BetrAVG\)](#)
- [Bundeselterngeld- und Elternzeitgesetz \(BEEG\)](#)
- [Bundesurlaubsgesetz \(BUrIG\)](#)
- [Bürgerliches Gesetzbuch \(BGB\)](#)
- [Entgeltfortzahlungsgesetz \(EFZG\)](#)
- [Entgelttransparenzgesetz \(EntgTranspG\)](#)
- [Familienpflegezeitgesetz \(FPfZG\)](#)
- [Gewerbeordnung \(GewO\)](#)
- [Handelsgesetzbuch \(HGB\)](#)
- [Kündigungsschutzgesetz \(KSchG\)](#)
- [Mindestlohngesetz \(MiLoG\)](#)
- [Nachweisgesetz \(NachwG\)](#)
- [Pflegezeitgesetz \(PflegeZG\)](#)
- [Schwarzarbeitsbekämpfungsgesetz \(SchwarzArbG\)](#)
- [Teilzeit- und Befristungsgesetz \(TzBfG\)](#)
- [Wissenschaftszeitvertragsgesetz \(WissZeitVG\)](#)

Pyramid of laws



Employment contract: general

- According to §§ 611, 611a BGB, the employment contract is a contract of service.
- Through this contract, the **employee** undertakes to perform work for his **employer** in return for payment. Employee owes **time** and not result. (Obligation under private law)
- Personal **dependence** of the employee on the employer
 - The employee is integrated into the employer's work organisation.
- **Permanent or fixed-term** employment contract
 - Limit for time-dependent contracts, no limit for purpose-dependent contracts.
- Material terms and conditions **must be in writing**.

Employment Contract: Rights & Duties

EMPLOYER	EMPLOYEES
<p>Duties:</p> <ul style="list-style-type: none"> • Payment of remuneration • Duty of care (occupational health and safety) • Principle of equal treatment • Granting of leave • Protection of personal rights • Preparation of a written employer's reference 	<p>Duties:</p> <ul style="list-style-type: none"> • Fulfilment of the employment contract • Duty of loyalty (Treuepflicht) • Duty of confidentiality • Duty of consideration and protection • Occupational health and safety obligation • Non-competition clause
<p>Rights:</p> <ul style="list-style-type: none"> • Authority to issue instructions to the employee: Content, time, duration and place of activity 	<p>Rights:</p> <ul style="list-style-type: none"> • Paid Leave • Breaks • Access to personal file

QUESTION 1

- Have you ever looked carefully at your current employment contract? - YES / NO
- According to German labour law: how many days of paid leave does an employee with a 5-day working week have to receive? 14 – 20 – 24 – 30 days

Paid Leave entitlement

- Statutory law (BUrlG- Bundesurlaubsgesetz) → minimum entitlement
 - **24 working days** for a 6-day week → **20 working days** for a 5-day week
- "Tariff" – Collective bargaining agreement (Tarifvertrag)
 - **30+X working days** with a 5-day week - favourability principle: better/ individual arrangements always possible.
- Employment contract
 - Minimum statutory/legal entitlement (Bundesurlaubsgesetz - BUrlG)
 - In the case of AT **no entitlement to tariff**, but at least entitlement according to BUrlG
 - In reality: AT employees receive paid leave on the basis of the collective agreement.

Working time: general

- Working time is the time from the **beginning to the end** of work **without** rest breaks.
- 8 hours per day, 6 days per week: 48 hours
40 hours with 5 days (ArbZG- Arbeitszeitgesetz)
- Working time may exceed 8 hours/ day, but **max 10 hours** and on max 60 days per year.

- “Rest breaks” (Ruhepausen): minimum **30 minutes** for a working time of 6-9 hours
- “Rest period” (Ruhezeit): minimum **11 hours** between working days
- **Overtime:** possible; but no “blanket stipulation” in employment contract

Working hours: non-tariff employees (AT)

- AT employees are **excluded** from the collective agreement
- Company regulations (BV- Betriebsvereinbarung) are nevertheless **binding**.
- Maximum working hours and work prohibitions of the Working Hours Act (ArbZG- Arbeitszeitgesetz) **must be observed**.
- Entitlement to **reduction of working hours** (TzBfG- Teilzeit- und Befristungsgesetz).
- If the duration of the working time is **not agreed** in the employment contract, then the **usual working time** applies. (→ **37,5h** in chemical industry collective agreement)
- Lump-sum compensation clauses **possible but often invalid**. (BAG 22.2.2012- AZR 765/10)

QUESTION 2

- Do you regularly work overtime/ extra hours? And how many per week on average?
 - No overtime
 - Less than 5 hours
 - Less than 10 hours
 - Less than 15 hours
 - 15 hours or more

Maternity Protection/ Mutterschutz

- **Protection during Pregnancy:** no harmful work, safe working environment (§§4,5 MuSchG)
- **Maternity Leave:** 6 weeks before expected delivery date and 8 weeks after birth (§§3,6 MuSchG)
- **Protection during Breastfeeding:** Employers must provide facilities for nursing or expressing milk
- **Termination Protection:** pregnant employees are safeguarded from termination, with exceptions (§9MuSchG)
- **Financial Benefits:** maternity pay provided during leave by health insurance or employer. (§13)
- **Notification & Documentation:** Employees must inform; Employers may request medical certification (§§5,6 MuSchG)
- **Multiple Births:** extended maternity leave (§7 MuSchG)

Parenting time/ Elternzeit

- **Statutory right** for employees with a child: Bundeselterngeld- und Elternzeitgesetz (BEEG)
- Allows up to **3 years of leave** until the child's 8th birthday (§15 BEEG)
- Notice requirements: **7 weeks'** written notice required (§16 BEEG)
- Splitting the leave: up to **3 blocks**, minimum of **2 months** each (§15 BEEG)
- **Employers** can postpone Elternzeit start for up to 12 months (§17 BEEG)
- **Part-time work** during Elternzeit is generally granted (§15 BEEG)
- **Protection against dismissal**, except for serious misconduct or company closure (§18 BEEG)

Parenting grant/ Elterngeld

- Parents who **reduce their working hours or take time off work** to care for their child are eligible for Elterngeld paid by the state. (§1 BEEG)
- **The amount** is based on the parent's income **before the birth or adoption** of the child. 67% of the parent's average monthly income, **max €1.800** per month. (§2-4 BEEG)
- **The duration is 12 months.** Plus 2 months if they share the leave with their partner.
- **Single parents:** up to 14 months or 24 months if both parents share. (§5-6 BEEG)
- **Application:** Elterngeldstelle/ parental allowance office in their city or region. (§7-9 BEEG)
- **Other benefits:** Kinderzuschlag/child supplement and Kindergeld/child benefit.

Parenting grant PLUS/ Elterngeld PLUS

- **Flexible Working:** Allows parents to work part-time (24-32h per week) while receiving benefits and promotes work-life balance and gradual return to work. (§4 BEEG)
- **Extended Duration:** double compared to normal Elterngeld - max 24 months (§4 BEEG)
- **Income Replacement:** half of standard Elterngeld **max €900** per month (§4 BEEG)
- **Partnership Bonus:** additional bonus months available when both parents take Elterngeld PLUS – then max 28 months (§14 BEEG)
- **Parental Partners:** Elterngeld PLUS is designed to encourage both parents to share the responsibility for childcare while managing their careers.

Termination: brief overview

- The employer and the employee **may terminate** the employment relationship; it has to be **in writing**.
- Forms of termination by the employer:
 - Dismissal for personal reasons
 - Dismissal for operational reasons
 - Behavioural dismissal
- **Extraordinary termination** (without notice): for good cause/ valid reason (§626 para.1 BGB) within 2 weeks
- Notice period for **ordinary termination**: at least four weeks. Depending on length of service.
- In Germany we have the Dismissal Protection Act (KSchG- Kündigungsschutzgesetz)

Notice periods (§ 622 BGB)

Length of service	Termination at the end of the month
from 2 years	1 month
from 5 years	2 months
from 8 years	3 months
from 10 years	4 months
from 12 years	5 months
from 15 years	6 months
from 20 years	7 months

**Objection to the dismissal must be lodged with the labour court within 3 weeks!
Use the works council's right to be heard.**

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



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?





» Online Workshop 2

Relevant legal regulations besides the individual contract

When: 27/11/2024, 18:00–19:30

In Germany, we have several legal regulations that influence your labour rights besides the individual contract. In Part 2 of our workshop we will give you an overview of relevant rights including co-determination and collective bargaining.



Bild: dizain / Adobe Stock

ADDITIONAL MATERIAL- not in presentation

Overview Elternzeit & Elterngeld

Absicherung in der Schwangerschaft und Erziehungszeit in Deutschland
Vereinfachte Darstellung

Zeitraum/ -punkt	Vor der Schwangerschaft	Beginn der Schwangerschaft	Mitteilung an den Arbeitgeber	restliche Zeit der Schwangerschaft	6 Wochen vor dem errechneten Geburtstermin	Tag der Geburt	8 Wochen nach der Geburt	bis 4 Monate nach der Geburt	bis 12 Monate nach der Geburt	bis max. zum 3. Lebensjahr	Wiedereinstieg in die Arbeit	Kindererziehung	Nach der Kindererziehung	
Arbeitsentgelt und andere finanzielle Leistungen:	Nettogehalt x € / Monat BGB § 611				Mutterschaftsgeld: 13 € / Tag MuSchG §§ 13–14						Nettogehalt x € / Monat BGB § 611			
	Anspruch auf Entgeltfortzahlung, MuSchG § 11				Nettogehalt x € / Monat abzgl. Mutterschaftsgeld MuSchG §§ 13–14			Elterngeld minimal 300 €, max. 1800 € BEEG §§ 1–6						
								Kindergeld 184 € / Monat, bzw. Kinderfreibetrag, EStG §§ 31–32, 62–78						
Recht auf unbezahlte Freistellung:						Elternzeit, BEEG §§ 15–16								
Recht auf Teilzeitarbeit:	TzBfG § 8										BEEG §§ 15–16			TzBfG § 8
Besonderer Arbeitsschutz:	Mutterschutz, MuSchArbV													
Beschäftigungsverbot:				ggf. Beschäftigungsverbot gemäß MuSchG § 3 Abs. 1, § 4, § 8 Abs. 1, 3 oder 5		Mutterschutz, MuSchG §§ 3–8								
						optional	gesetzlich vorgeschrieben							
Kündigungsschutz:	MuSchG §§ 9–10													
										BEEG §§ 18–19				

Probationary period/ Termination agreement

- Probationary period
 - Often in the employment contract. But there are no legal regulations.
 - No longer than 6 months. Thereafter, statutory notice periods.
 - Shortening and extension possible but not beyond 6 months.
 - Termination possible on both sides with a notice period of 2 weeks. Termination without notice also possible.
- Termination agreement
 - Mutual agreement between employer and employee to terminate the employment relationship. Often linked to a severance payment and without time limits.

Dismissal Protection Act (KSchG)

- Restriction of free dismissal options by the employer:
 - Person, conduct, dismissal for operational reasons
- Protection of workers against socially unjustified dismissals
 - Livelihood for the employee
- Special protection against dismissal for certain groups of persons.
- Protection against dismissal in old age: No. But often regulated in transformer contracts.
- Dismissal on the grounds of age is not permitted: Occupational Health and Safety Act (ArbSchG)

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Services, topics and upcoming events: Always bundled on kaat.net