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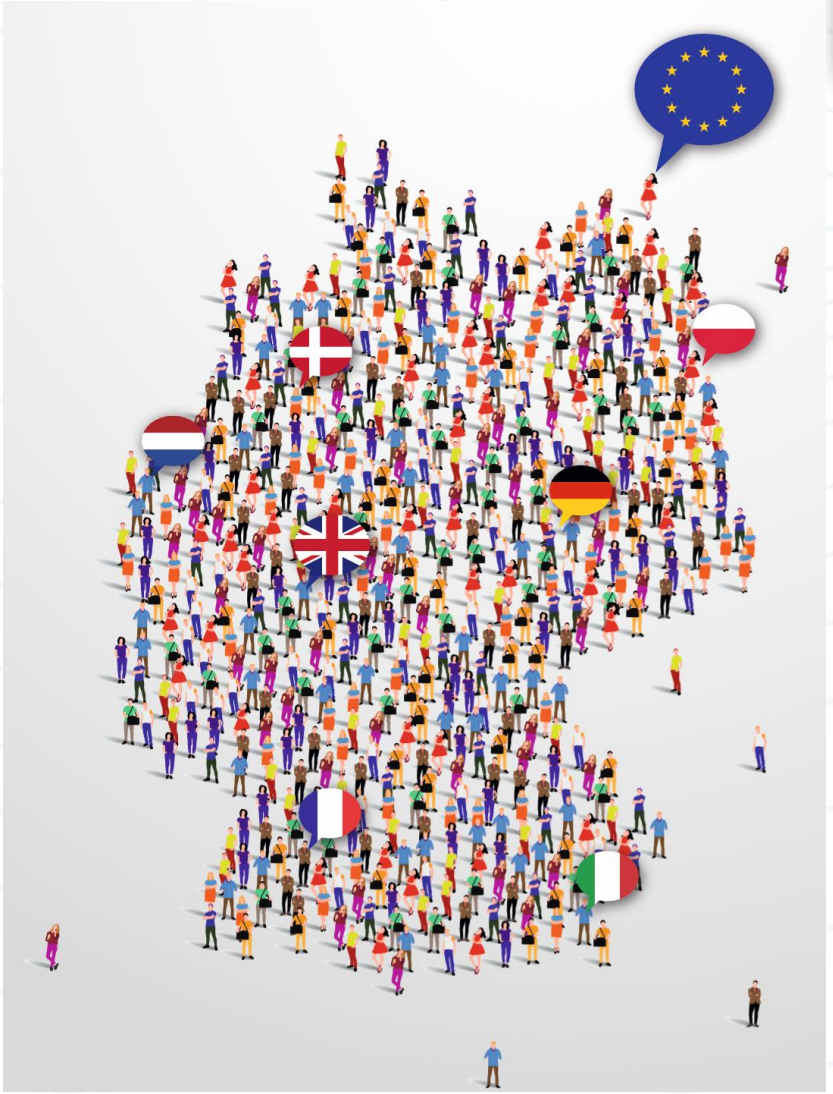
# Your Labour Rights

- what you need to know in Germany



## Part 2
## Relevant legal regulations besides the individual contract

# Introduction



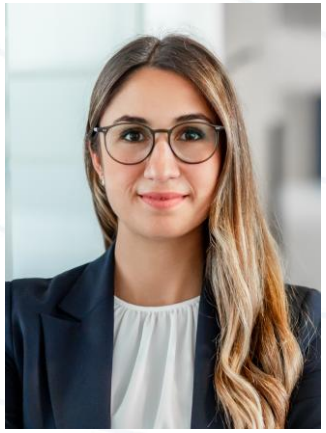
**Dr. Tabea Bromberg**

*Trade Union Secretary*



**Michael LaGruth**

*Trade Union Secretary*



**Canan Schneider**

*Lawyer specializing in Employment Law*



**Hannah Vormann**

*Lawyer specializing in Employment Law*

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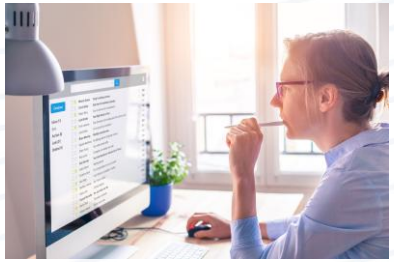


Seminars

# KAAT.net: Services, topics & events for commercial, academic and non-tariff employees

www.kaat.net/Newsletter




Also available in English!




Workshops, Flyers (in Englisch)



18./19.06.2027 – 7. KAAT-Dialog

# Agenda

Works council/ co-determination – Betriebsrat/ Mitbestimmung

Tasks of the works council

Co-determination according to §87 BetrVG

Introduction to collective bargaining law/ Tarifvertragsrecht

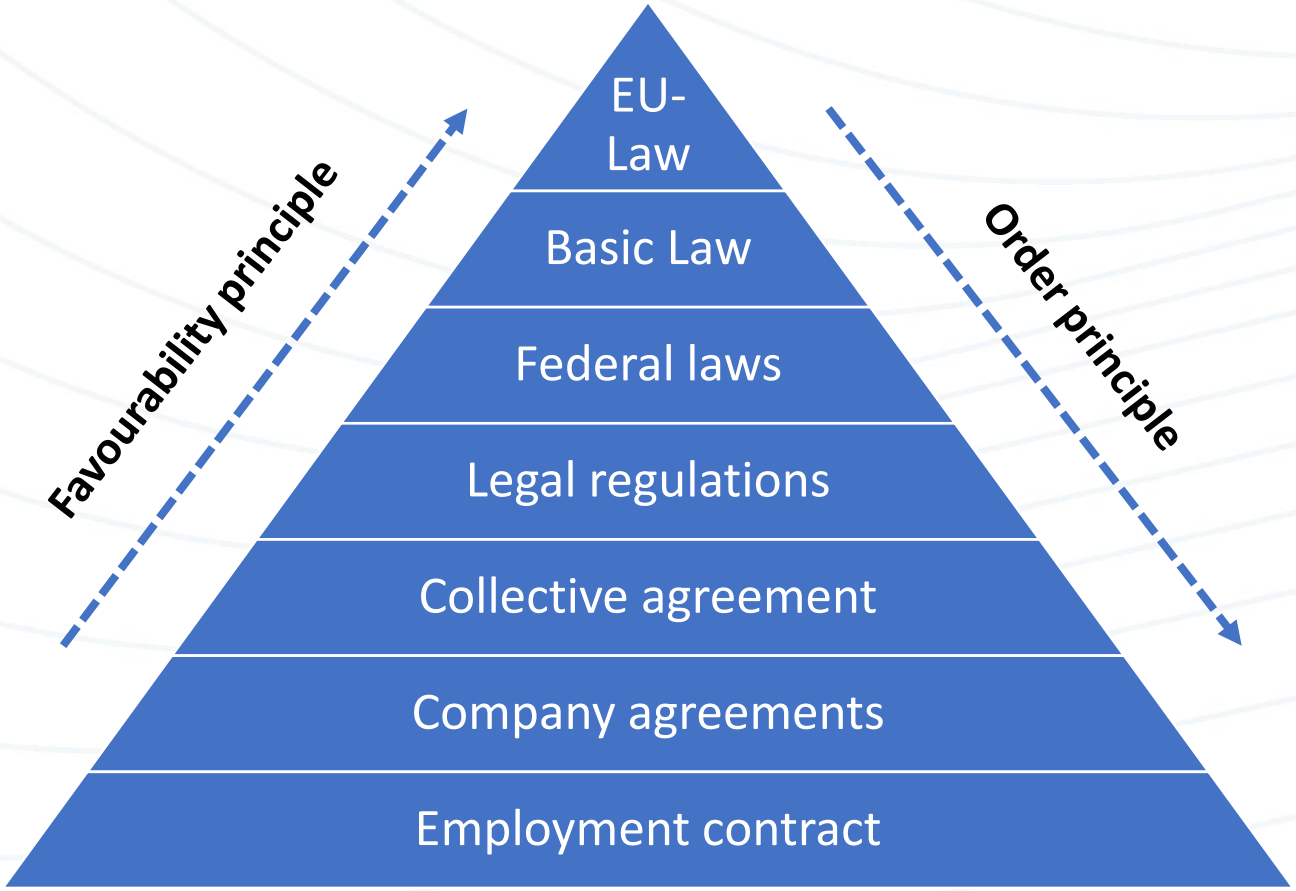
Collective bargaining/ Tarifverhandlungen

Relationship Tariff – non-Tariff

Special guests

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

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## Monitoring

Compliance with all regulations applicable in the company:

Laws, regulations, accident prevention regulations and company agreements (Betriebs-vereinbarungen)

## 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 Youth and Apprentice Representation (JAV, Jugend- und Auszubildenden-vertretung)

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? (Works Council)
  - Yes, at a staff meeting (Betriebsversammlung).
  - Yes, I went directly to the BR.
  - Yes, I was personally approached by the BR.
  - No, I haven't had any contact yet.

# Different rights in matters specified by BetrVG

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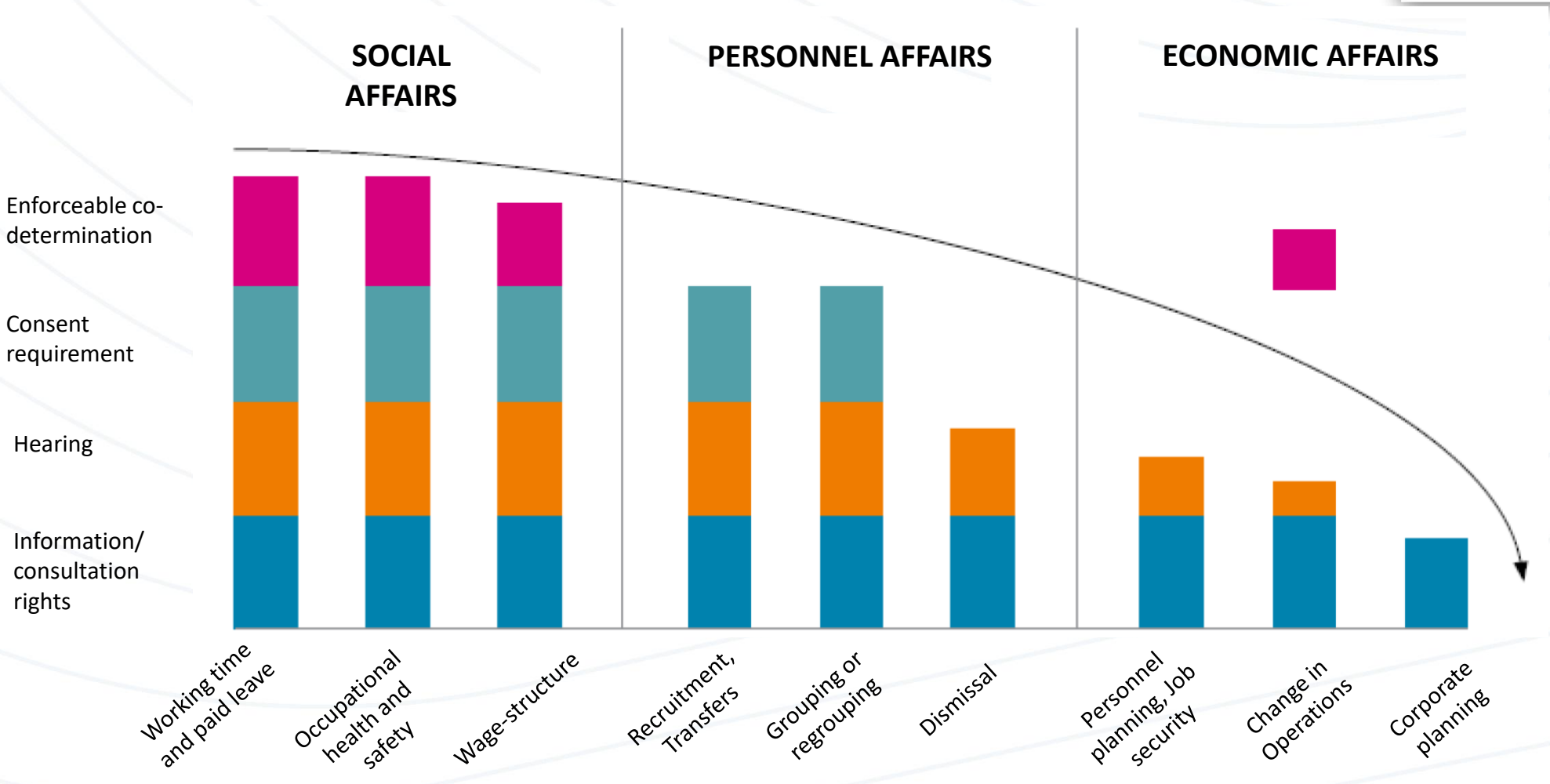
| PARTICIPATION RIGHTS | CO-DETERMINATION RIGHTS |
| --- | --- |
| • Information rights<br>• Hearing rights<br>• Consultation rights | • Requirement of Consent<br>• Enforceable co-determination<br>• Right of initiative |
| AG must involve BR in the decision-making process, but ultimately remains free to make his own decision | The Works Council has a right to refuse consent or consent is required. |

# Co-determination rights - §87 BetrVG

| Social Affairs | Personnel Affairs | Economic Affairs |
|---|---|---|
| For example:<br>- Order of the enterprise<br>- Working time regulations<br>- Paid leave regulation<br>- Remuneration<br>- Technical control devices<br>- Occupational health and safety | For example:<br>- Recruitment, grouping or regrouping<br>- Behavioural or personal dismissal<br>- Human resources development<br>- Selection guidelines<br>- Questionnaires/ Assessment principles | For example:<br>- Relocation of the operation<br>- Change in the operational organisation<br>- Closures<br>- Staff reduction<br>- Reconciliation of interests/ social plan |

# Co-determination curve



# Works Council Elections

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- From **March 1 to May 31, 2026,** works council elections took place in all companies across all industries all over Germany

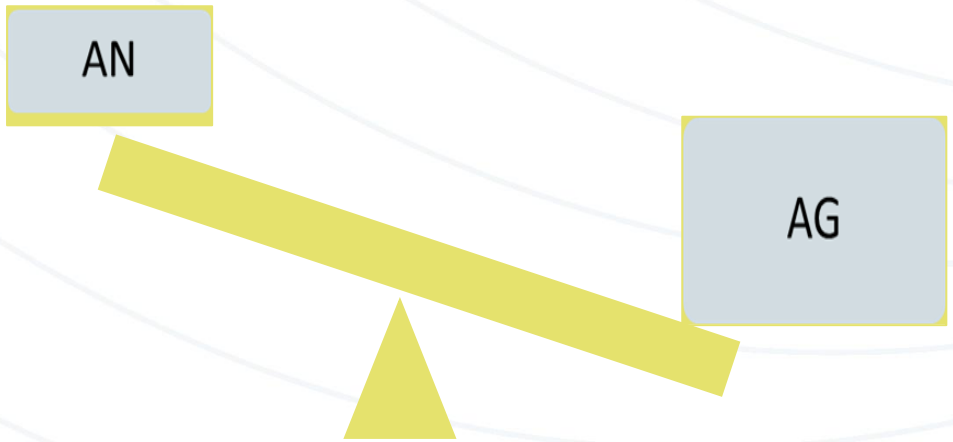
- All employees of the company who are at least 16 years old are eligible to vote, regardless of whether they are employed
  - permanently or on a fixed-term basis,
  - full-time or part-time
  - work on-site or from home
  - even temporary agency workers are eligible to vote if they have been assigned to the company for more than three months (§ 7 BetrVG)
- The decisive factor is that the employee belongs to the company on the day of the election

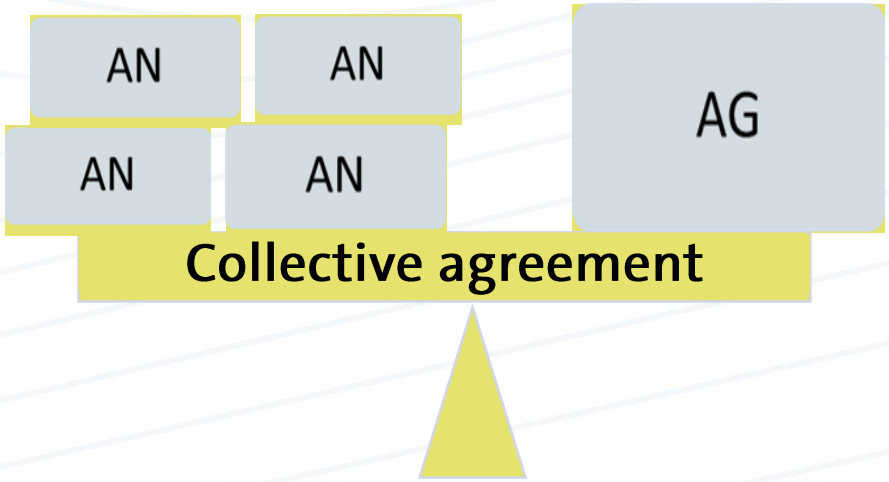
- **So most likely you were eligible to vote, too!**
- If you have any questions or issues at work, you can reach out to your works council.

# 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




AG: Arbeitgeber (employer)
AN: Arbeitnehmer (employee)

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

# Why collective agreements?

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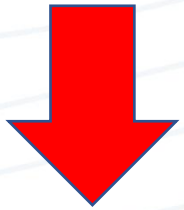
## Employees:

- 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)

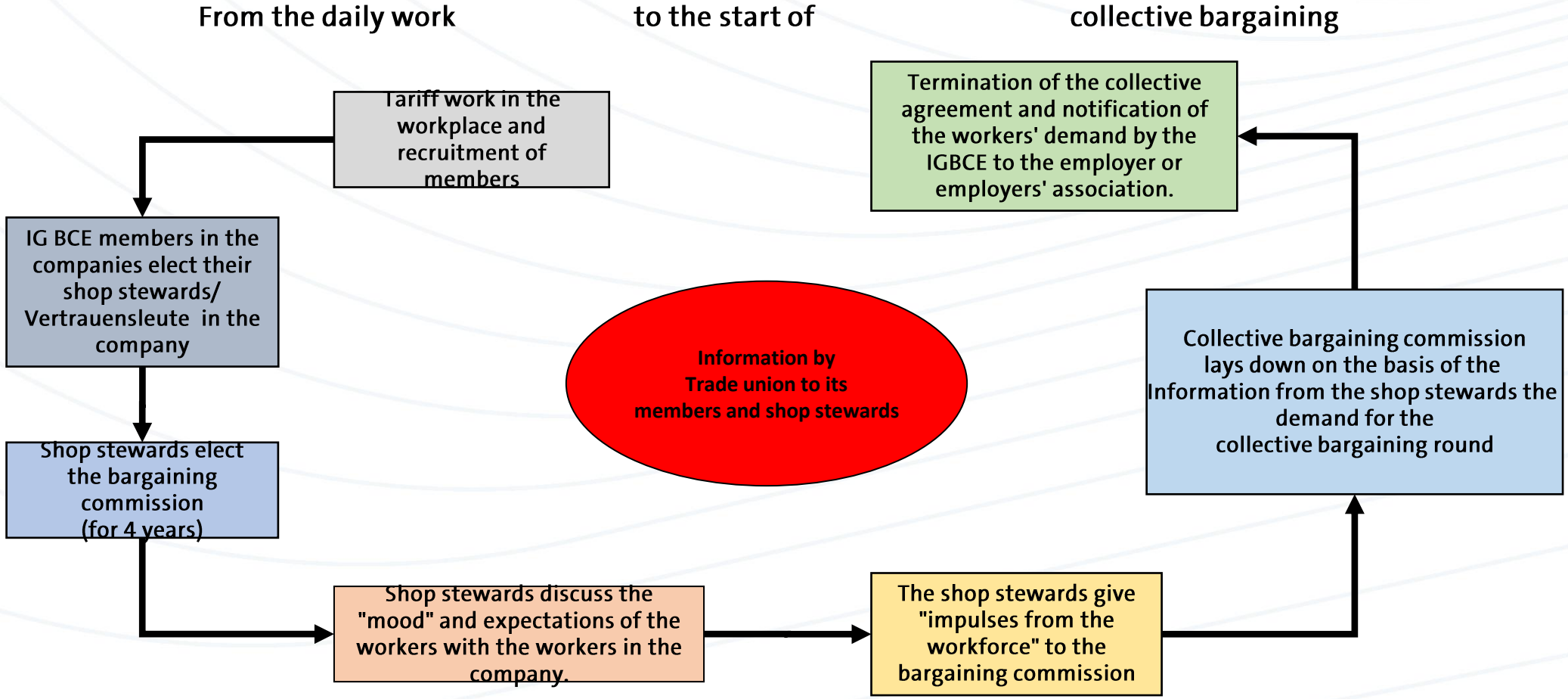
## Employers:

- 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 group (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 (Erfahrungsstufen) in higher pay groups from E7 onwards, go automatically upwards with time (after 2, 4, 6 years).
- Important: Your salary and pay group is based on the job you do and not your personal qualification!

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

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

- Collective agreement regulates under which conditions an employee is AT – different in every industry.

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

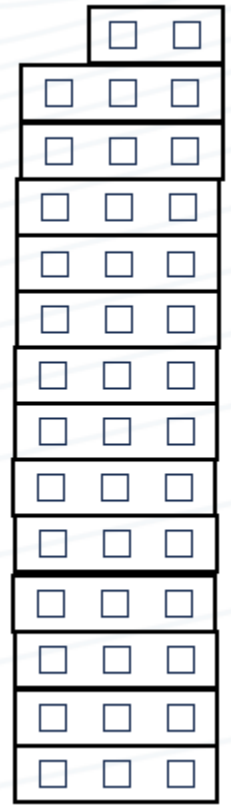
1. Employee needs an AT employment contract.
2. Employee must be grouped in AT with the participation of the BR according to §99 BetrVG.
3. Employee works in a position that is more demanding than an E13 position.
4. Pay and overall working conditions as a whole must exceed the value of the working conditions 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; LAG Köln 12.03.2026, 6 SLa 463/25)

# Relationship tariff – non- tariff

- **Pay scale:** AT pay must be higher than the pay of the highest pay group, seen as a whole per year. → **LAG Rheinland-Pfalz (2 Sa 114/21) 27.01.2022**
- Remuneration of the highest pay group **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, bonus 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.



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# IS MY NON-TARIFF (AT-/AUSSERTARIFLICH) SALARY HIGH ENOUGH? MINIMUM SALARY PROVISIONS FOR NON-TARIFF EMPLOYEES IN THE CHEMICAL/PHARMACEUTICAL INDUSTRY

## 20.04.2027, 16:30, ONLINE

- ✓ Am I really employed outside the collective bargaining agreement?
- ✓ What rights and entitlements arise from an employment relationship outside the collective bargaining agreement?
- ✓ What can I do if something is wrong with my employment conditions as non-tariff employee?
- ✓ What does the IGBCE do for non-tariff employees and how can I get involved?

Non-members are also welcome to attend this seminar. Registration is possible by email to **kombi@igbce.de**.

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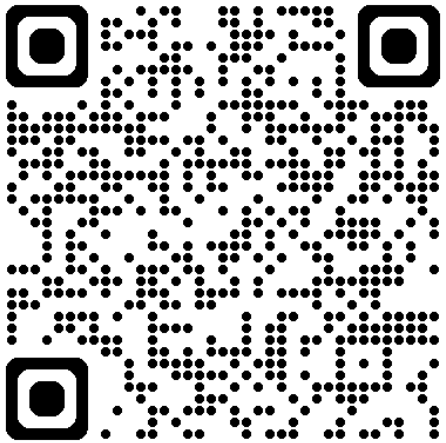
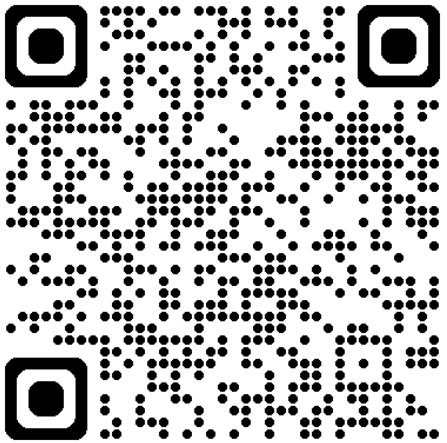
# You can read more about this topic

## Here



## And here





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# BR-Talk

LIVE

**With:**

**Andreea Schade, Works Council B. Braun**

**Stefan Knobl, Works Council Eckart**

# 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

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# » Webinar 3

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

*Wed, 2 December 2026, 5–7 p.m.*

Registration

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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Are you negotiating your first labour contract?

Have you already laid the foundations of your career?

Or are you already thinking about a flexible transition into retirement?

**Reliable information and expert knowledge are important in every period of life.**

**Join IGBCE!**






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