

## Germany: Industrial relations profile

### Facts and figures

Area: 357,021 square kilometres

Population: 81,859,000 (Nov. 2011)

Language: German

Capital: Berlin

Currency: Euro

### Economic background

<b>GDP per capita (2010)</b> (in purchasing power standards, index: EU27=100)	118
<b>Real GDP growth (% change on previous year) (2011)</b>	3.0%
<b>Inflation rate (2011)</b> (annual average rate of change 2010–2011)	2.5%
<b>Average monthly labour costs, in € (2007)</b>	€3,892.0
<b>Average labour productivity (% change on previous year) (2011)</b>	1.6%
<b>Gross annual earnings, in € (2010)</b>	€42,100
<b>Gender pay gap (2010)</b>	23.1%, unweighted gap
<b>Employment rate (15–64 years) (2011)</b>	72.5%
<b>Female employment rate (15–64 years) (2011)</b>	67.7%
<b>Unemployment rate (15–64 years) (2011)</b>	5.9%
<b>Monthly minimum wage</b>	No statutory minimum wage in Germany

Source: Eurostat

### Industrial relations characteristics, pay and working time

<b>Trade union density (%) (2005)</b> (Trade union members as a percentage of all employees in dependent employment)	22% <sup>1</sup>
<b>Employer organisation density (%)</b> (Percentage of employees employed by companies that are members of an employer organisation)	n.a.
<b>Collective bargaining coverage (%) (2011)</b> (Percentage of employees covered by collective agreements)	61% western Germany; 49% eastern Germany <sup>2</sup>

<b>Number of working days lost through industrial action per 1,000 employees (2011)</b>	Approx. 2.4% <sup>3</sup>
<b>Collectively agreed pay increase (%)</b> (annual average 2010–2011)	2.0% <sup>4</sup>
<b>Actual pay increase (%)</b> (annual average 2010–2011)	1.1% (fourth quarter of 2011 in comparison to fourth quarter of 2010) <sup>5</sup>
<b>Collectively agreed weekly working hours</b>	37.6 (2008) 37.7 (2009–2011) <sup>4</sup>
<b>Actual weekly working hours (2010)</b>	40.5 <sup>6</sup>

Source: <sup>1</sup> European Commission; <sup>2</sup> Institute for Employment Research (Institut für Arbeitsmarkt- und Berufsforschung, IAB); <sup>3</sup> Federal Employment Agency (Bundesagentur für Arbeit); <sup>4</sup> Annual Collective Bargaining Reports 2008–2011; <sup>5</sup> Federal Statistical Office (Statistisches Bundesamt); <sup>6</sup> Working time developments – 2010

## Background

### Economic context

As the table on economic background shows, overall the German economy performed well in 2011: real GDP growth amounted to 3%. The main pillars of German commerce and drivers of GDP are the manufacturing, construction and services sectors.

GDP growth rates indicate that the German economy was hit hardest by the global and financial crisis in 2009, when GDP dropped by 5.1%. However, it recovered quickly, rising by 3.7% in 2010, though slowing to 3% in 2011. The manufacturing sector was particularly badly affected by the global and financial crisis, with a severe drop in demand. These developments were countered at the national level by the rescue packages of the federal government, which included measures (such as short-time work, [DE0910039I](#), [DE0909029I](#), [DE0904039I](#)) to keep unemployment figures low. At 5.9%, unemployment was exceptionally low in 2011 compared to other European countries. The social partners at the sectoral and establishment levels nevertheless concluded collective agreements which were clearly influenced by the crisis and stipulated measures to fight its negative effects (see below).

### Legal context

The basic structures of the German industrial relations system have not altered since its inception after the Second World War. The main features are regulated by the Collective Agreement Act (Tarifvertragsgesetz, TVG) of 1949 and the Works Constitution Act (Betriebsverfassungsgesetz, BetrVG) of 1952 (amended in 2001).

The Collective Agreement Act stipulates that employers and trade unions can act as collective bargaining parties, i.e. conclude collective agreements. Though there is a trend towards decentralisation, the main pattern today remains sectoral collective bargaining.

At their workplaces, employees are mostly represented by works councils or alternative bodies of interest representation. The setting up, tasks and limitations of a works council are regulated by the [Works Constitution Act](#). Several things are worthy of particular note:

- Works councils can be set up in any establishment with a minimum of five employees.

- All employees except those in executive or similar positions are allowed to vote for, or stand for election to, works councils. Trade union membership is not a prerequisite.
- The works council has co-determination, information and consultation rights. However, issues subject to collective bargaining are excluded from its bargaining powers (unless the relevant collective agreement specifically allows for works council involvement).
- Works councils do not, however, have the right to call strikes or initiate other industrial action.

These laws are enforced by the Federal Labour Court (Bundesarbeitsgericht, [BAG](#)) and its case law, which has developed over the decades. The BAG has, for example, decided on various occasions that, in order to be able to accomplish its duties, a union needs to be strong enough to enforce the rules. Also, it must possess a certain organisational capability in order to be considered as representative.

Strikes and lockouts are only allowed in the context of collective bargaining. This means that such industrial action can only be staged in order to pursue collective bargaining aims. Political or general strikes are not lawful. Employees do not have an individual right to strike; only unions can call and organise strikes. Certain professions, such as civil servants, are prohibited from going on strike altogether.

However, several measures for resolving disputes exist. One of the main features of the German industrial relations system is the ban on industrial action while a collective agreement is in force ([Friedenspflicht](#)). Once a collective agreement has been concluded, unions are not allowed to organise strikes and employers may not impose lockouts on the issues concerned for the duration of the agreement.

## Industrial relations context

The 2008/2009 global and financial crisis showed that the German industrial relations system is very stable. The social partners in various sectors put forward many constructive solutions for dealing with the crisis. However, the overall trend towards declining trade union and employer association membership prevails. Decentralisation in collective bargaining remains a challenge to the system.

## Main actors

### Trade unions

As the Industrial Relations Profile 2010 for Germany showed, trade union density declined from 25% (2000) to 22% in 2005 (European Commission, 2009). The decline can be attributed mainly to the shift from union strongholds, such as the manufacturing sector, to service industries. Workers in the latter sector are harder to organise. However, unions have taken up the challenge and started to organise these workers. Therefore, the decline in membership figures has slowed since 2000.

The basic institutional landscape amongst unions did not change in 2011. There are three important umbrella organisations:

1. The Confederation of German Trade Unions (Deutscher Gewerkschaftsbund, [DGB](#)) comprised eight unions with a total membership of 6,155,899 in 2011. This compares to 6,193,252 and 6,264,923 members in 2010 and 2009 respectively. The two biggest unions under the DGB's umbrella are the German Metalworkers' Union (Industriegewerkschaft Metall, [IG Metall](#)) with some 2,245,760 members in 2011 and the United Services Union (Vereinte Dienstleistungsgewerkschaft, [ver.di](#)) with some 2,070,990 members.
2. The German Civil Service Association (Deutscher Beamtenbund und Tarifunion, [dbb](#)) and its affiliated unions represent 1.26 million members, most of whom are civil servants and

employees working in public administration bodies at the regional and national levels. Its membership includes employees of previously state-owned companies which have now been privatised. In total, the confederation is made up of 38 unions and 16 regional associations.

3. The Christian Trade Union Federation of Germany (Christlicher Gewerkschaftsbund Deutschlands, [CGB](#)) unites 16 unions under its umbrella. The CGB unions represent over 280,000 members in Germany.

Please note that there are some unions which are not affiliated to any of the three biggest union confederations.

### *Trends in trade union development*

In 2011, no major mergers occurred. The two most important unions in the railway sector, i.e. TRANSNET – Gewerkschaft der Eisenbahner Deutschlands (GdED) and the Transport Trade Union GDBA (Verkehrsgewerkschaft GDBA) had already merged in 2010 to become the Rail and Transport Union (Eisenbahn- und Verkehrsgewerkschaft, [EVG](#)) ([DE1012029I](#)).

### **Employer organisations**

There is no recent information on the overall density of employers' organisation. The IAB publishes data on the collective bargaining coverage of establishments (see below).

### *Main employer organisations*

The basic structure of the German industrial relations system on the employer side remains unchanged. In 2011, the four most important employer umbrella organisations were still in place:

- the German Confederation of Employers' Associations (Bundesvereinigung der Deutschen Arbeitgeberverbände, [BDA](#))
- the Federation of German Industries (Bundesverband der Deutschen Industrie, [BDI](#)).
- the German Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks, [ZDH](#))
- the German Chambers of Industry and Commerce (Deutscher Industrie- und Handelskammertag, [DIHK](#))

Whilst none of these associations is itself directly involved in collective bargaining, the members of BDA and ZDH are party to the collective bargaining negotiations and BDA and ZDH have a coordinating role concerning the collective bargaining issues of their members ([DE0910049Q](#)).

### *Main employer developments*

Several mergers occurred during 2011. The most important of these affected temporary agency work. The industry was formerly represented by two associations: the Employers' Association of Medium-Sized Personnel Service Companies (Arbeitgeberverband Mittelständischer Personaldienstleister, AMP) and the German Association of Private Employment Agencies (Bundesverband Personaldienstleistungen Zeitarbeit, BZA). These two employer organisations merged in 2011. The new association is called the Association of Temporary Employment Agencies (Bundesarbeitgeberverband der Personaldienstleister, [BAP](#)). BAP has over 1,800 member companies.

In recent years, several employer organisations have introduced a new membership status, i.e. membership without a binding commitment to collective agreements (Ohne Tarifbindung Status, OT-Status). This is the case for the Employers' Associations for the Metal and Electrical Industry (Arbeitgeberverbände der Metall- und Elektroindustrie, [Gesamtmetall](#)) which has offered OT-Status since the end of 2005. Nonetheless, the majority of employees still work in companies bound by the sectoral collective agreement for their industry. At the end of 2010, roughly 1.7

million employees worked in 3,712 member companies bound by the sectoral collective agreement in the metalworking and electrical industry. This compares to nearly 335,000 employees in 2,725 companies who were not covered by the sectoral collective agreement.

## Industrial relations

### Collective bargaining

#### Levels of collective bargaining

	National level (Intersectoral)	Sectoral level	Company level
Principal or dominant level		X	
Important but not dominant level			X
Existing level		X	X

#### Collective agreement coverage

A distinction needs to be made between the collective bargaining coverage of establishments and of employees. The IAB Establishment data for the last three years shows that the share of establishments covered by a sectoral collective agreement declined from 36% in 2007 to 32% in 2011 in western Germany. In eastern Germany, the share fell from 20% in 2007 to 18% in 2011.

#### Collective bargaining coverage by establishments, 2011 (%)

	Western Germany	Eastern Germany
Sectoral collective agreements	32	18
Company-level collective agreement	2	3
No collective agreement (of those companies orienting their wage rates on a collective agreement)	66 (42)	79 (45)

*Notes: Establishment panel data compiled by the Institute for Employment Research (IAB)*

*Source: Ellguth and Kohaut, 2011*

Whilst in western Germany the share of employees covered by a sectoral collective agreement remained relatively stable (56% in 2007 and 54% in 2011), the picture is different for eastern Germany, where the proportion sank from 41% in 2007 to 37% in 2011.

#### Collective bargaining coverage by employees, 2011 (%)

	Western Germany	Eastern Germany
Sectoral collective agreements	54	37
Company-level collective agreement	7	12
No collective agreement (of those companies orienting their wage rates on a collective agreement)	39 (52)	51 (50)

*Notes: Establishment panel data compiled by Institute for Employment Research (IAB)*

*Source: Ellguth and Kohaut, 2011*

As laid down in the Collective Agreements Act (Tarifvertragsgesetz, [TVG](#)), collective agreements are binding on the collective bargaining parties. This includes members of both the trade unions and the employers' associations, unless the latter have opted for membership status without a binding commitment to collective agreements (OT-Status, see above).

### *Extension of collective agreements*

German legislation provides different mechanisms for extending collective agreements:

- Article 5 of the Collective Agreements Act stipulates that the ministries of labour at the state or national level can extend collective agreements by an 'order of extension' (Allgemeinverbindlichkeitserklärung). For this to happen, trade unions and employer organisations must first apply for such an extension. The ministry of labour and a committee consisting of three trade union representatives and three representatives of employer organisations then vote on the extension. A collective agreement can only be extended if it is approved by a majority vote of the committee ( i.e. at least four votes in favour), if it is in the 'public interest' and if the employers bound by the agreement employ a minimum of 50% of the employees within the scope of the agreement (TVG, para. 5).
- The Federal Ministry of Labour and Social Affairs (Bundesministerium für Arbeit und Soziales, [BMAS](#)) also hosts a committee on collective agreements (Tarifausschuss), which can declare collective agreements on minimum wages to be generally binding. The legislative basis for this mechanism is the Posted Workers Act (Arbeitnehmerentsendegesetz, AEntG). This procedure has been used in the construction industry, in the electrical trades and in the temporary agency work sector, for example.

### *Main mechanisms in wage bargaining coordination*

There are no such mechanisms for wage bargaining at the national level. However, as the IAB Establishment panel data show, many companies not bound by a collective agreement nonetheless orient their wage rates on one.

### *Main trends in collective bargaining*

There is a trend towards decentralisation as the percentage of employees covered by sectoral collective agreements has been declining during the last decade.

### **Other issues in collective agreements**

The collective agreement in the insurance industry on partial retirement and on the 'working time corridor' (Arbeitszeitkorridor) was prolonged in 2011, along with the agreement on protection in cases of restructuring measures. Covered by the agreements are some 160,000 employees in the industry ([DE1108019I](#)).

In 2011, the unions focused on pay issues. This development was a major shift from the 2010 collective bargaining round in which the global economic crisis and safeguarding employment dominated the agenda.

In 2010, employers and unions often concluded collective agreements tackling the negative effects of the crisis and most of all safeguarding employment. This was the case in the metal and electrical industry, where a collective agreement offered the possibility to prolong short-time work to 18 months (Zukunft in Arbeit, ZiA, [DE1004029I](#)). To support companies in crisis and their employees, the social partners in the chemical industry decided in 2010 to foster regional

networks so that employees from a struggling company could be temporarily placed in another firm ([DE1006019I](#)).

With regard to the public sector, special attention should be paid to a collective agreement concluded by the United Services Union (Vereinte Dienstleistungsgewerkschaft, [ver.di](#)) and the German Union for Education (Gewerkschaft Erziehung und Wissenschaft, [GEW](#)) with the Municipal Employers' Association (Vereinigung der kommunalen Arbeitgeberverbände, [VKA](#)) in 2009. It covers social and childcare workers who were granted, amongst other things, health risk assessments at their workplaces. Depending on the results of the assessment further steps will be discussed with the employee in question ([DE0909019I](#)).

Finally, it should also be noted that the topic of demographic change ranks high on the social partners' agenda and has therefore also made its way into collective agreements. The social partners in the steel industry debated the issue during their 2011 bargaining round, after having already concluded a collective agreement on 'demographic change' in 2006 ([DE1010019I](#)).

In 2008, the Mining, Chemicals and Energy Industrial Union (Industriegewerkschaft Bergbau, Chemie, Energie, [IG BCE](#)) and the German Federation of Chemicals Employers' Associations (Bundesarbeitgeberverband Chemie, [BAVC](#)) introduced 'demography analyses' at company level ([DE0805029I](#); [DE1011019I](#)). In 2011, further steps were taken at the regional level in the chemical industry: in November, the employer organisation AGV Nordostchemie and IG BCE concluded their negotiations with a compromise which also tackles the demographic challenges faced by chemical companies in the region, i.e. an ageing workforce. A fund will be set up to promote human resource measures and paying particular attention to the needs of employees of different ages ([DE1112019I](#)).

For the first time in Germany, a 2010 agreement in the steel sector provided for equal pay for temporary agency workers and permanent employees.

### *Focus on training and lifelong learning issues*

Several collective agreements in different sectors touch on the issue of training and lifelong learning. For example, the IG BCE and BAVC decided in 2011 to strengthen their so-called [Start-programme](#). The programme was designed for youngsters who had not only failed to secure a vocational training position but even lacked the basic skills for such training ([DE1104029I](#)). Other agreements related to training issues were concluded in the metal industry and in the public sector ([DE1101019Q](#)).

## **Industrial disputes**

### *Frequency of strikes*

Official strike statistics compiled by the Federal Employment Agency (Bundesagentur für Arbeit, [BA](#)) do not count the number of separate strikes. However, the BA regularly publishes the number of establishments affected by strike action, the days not worked due to strikes or lockouts and the number of employees involved. Please also note that only industrial action which lasts for at least a day and affects a minimum of 10 workers is recorded.

The BA statistics on industrial action show that the number of establishments affected by strikes or lockouts fell from 454 in 2009 to 131 in 2010 but rose again to 158 in 2011. In terms of employees affected, the trend is more straightforward with fewer employees being involved, according to BA statistics: some 28,281 workers took part in 2009, 11,520 in 2010 and 11,282 in 2011. However, industrial action still leads to many days not worked (DNW): with 63,708 DNW in 2009, 24,501 in 2010, increasing again to 69,896 DNW in 2011.

The Institute of Economic and Social Research (Wirtschafts- und Sozialwissenschaftliches Institut, [WSI](#)) also publishes data on strikes. These are generated from unions' estimates and

press reporting. This source recorded 400,000 workers being involved in strikes in 2009, which compared to only some 120,000 striking workers in 2010. This figure rose once more in 2011, but at 180,000 workers is still comparatively low. The DNW due to industrial action declined from 398,000 in 2009 to 173,000 in 2010, rising again to some 300,000 DNW in 2011.

### *Sectors involved*

In 2011, the trend towards a concentration of strike action in the service and public administration sectors continued. Since the metalworking and electrical industry, one of the traditional strongholds of industrial action, did not conduct any collective wage bargaining, it saw few serious strikes in 2011.

### *Main reasons for collective action*

Collective action in Germany often accompanies wage negotiations in collective bargaining rounds. Other reasons for strike action relate to unions' calls for improved employment standards or their fight against decentralisation in collective bargaining. Restructuring plans by companies also lead to token strikes. In 2011, for example, major strike action was taken after electricity provider E.ON announced its restructuring plans in the summer.

### *Dispute resolution mechanisms*

Employer organisations and unions have in many sectors agreed on certain mechanisms to resolve conflicts, e.g. when collective bargaining rounds fail to produce results. For this case, a joint dispute resolution agreement (Schlichtungsvereinbarung) can be concluded by the employer and union representatives. They agree beforehand on the details of the resolution procedure, which is usually led by an arbitrator.

### **Tripartite concertation**

Tripartite concertation is predominantly found in the German social security system and its institutions (such as statutory unemployment, health and pension insurance). Though there is no national pact institutionalising tripartite concertation, there are several committees or initiatives featuring tripartite structures. This is the case, for instance, for vocational training policy matters and the mechanism described in the Posted Workers Act for extending collective agreements to the whole sector (e.g. committee on collective agreements within BMAS, see above).

### **Workplace representation**

Works councils are the main form of employee representation at the establishment level. As the latest data from the IAB establishment panels show, 10% of establishments (covering some 44% of employees) in the western German private sector had a works council in place in 2011. This compares to 9% of the eastern German establishments, covering 36% of employees.

Other alternative bodies of interest representation also exist at the establishment level. According to the IAB data, such other bodies existed in 9% of all establishments (covering 11% of employees) in private industry in 2010.

The rights and obligations of a works council are regulated by the Works Constitution Act (Betriebsverfassungsgesetz, BetrVG). Dating back to 1952, the act was amended in 2001. According to this law, a works council can be set up in all establishments having at least five employees.

Please also note that all employees are entitled to take part in elections for works councils or become a member of the works council. They do not have to be a trade union member to do so. Whilst the works council has several co-determination rights as well as consultation and



information rights, these do not extend to issues which are part of collective agreements (unless the agreement specifically allows the works council to deal with such topics).

### Main channels of employee representation

	Works council type (Betriebsrat)	Trade union (Gewerkschaft)	Health and Safety Committees (Arbeitsschutzausschuss)
1 Most important body	X	X	
2 Alternative body			X

### Employee rights

Health and safety issues at the workplace are regulated by several laws. The Work Safety and Protection Law (Arbeitsschutzgesetz, [ArbSchG](#)), introduced in 1996, stipulates information rights for employees. Further laws, such as the Occupational Safety Act (Arbeitssicherheitsgesetz, [ASiG](#)) and the Social Law Book (Sozialgesetzbuch, [SGB](#)), also provide for employees' consultation rights. These laws and their implementation are supervised by the labour inspectorates.

Labour protection is carried out in Germany on several levels: labour laws are supervised by labour courts working at the national, state and local levels. The highest authority is the BAG. As already mentioned in the 2010 Industrial Relations Profile for Germany, so-called lay judges are involved in all proceedings. These judges are nominated by the trade unions and employer organisations.

## Pay and working time developments

### Minimum wage

There is no national statutory minimum wage in place. For the procedures for instituting a minimum wage in certain circumstances see above.

### Pay developments

The Federal Statistical Office (Statistisches Bundesamt Deutschland, [destatis](#)) publishes data on [pay developments](#). In 2011, annual gross wages rose by 3%. This marks a distinct shift from 2010, when the increase only amounted to 0.4% (2009: 2.5%).

As the WSI Annual Collective Bargaining Report 2011 shows, collectively agreed wages rose by 2% in 2011 in comparison to the previous year. In 2010, 2009 and 2008, collectively agreed pay rose by 1.8%, 2.6% and 2.9% respectively – clearly showing the negative impact of the global economic and financial crisis.

There is widespread debate on the gender pay gap. Official statistical data, such as that compiled by destatis, indicates that the gender pay gap was [23% in 2011](#). However, destatis does not control for some of the important variables which can explain the gap.

The Cologne Institute for Economic Research (Institut der deutschen Wirtschaft Köln, [IW Köln](#)) has analysed the [gender pay gap](#) and factors which may contribute to it. Using 2008 data from the Socio-Economic Panel (Sozioökonomisches Panel, SOEP), the IW study shows that factors other than gender contribute to the gap, such as level of education, place of residence, age, job tenure, work experience, autonomy of the employee at the workplace, size of the company and chosen sector, experience in working part-time and periods of unemployment. Taking these factors into

consideration, the gender pay gap diminishes to 12.9%. It is noteworthy that long breaks from the workplace have a strong effect on women's wages: for mothers who return to work within 1.5 years, the pay gap sinks to only 4% ([DE1107039I](#)).

## **Working time**

Statutory working time is regulated by the Working Time Act (Arbeitszeitgesetz, [ArbZG](#)). It stipulates that employees must not work longer than 8 hours a day. However, daily working time can be prolonged to 10 hours if an average of 8 hours per day over 6 months (or 24 weeks) is not exceeded.

### *Working time as an issue in collective bargaining*

As in previous years, collectively agreed weekly working hours averaged 37.5 hours in western Germany and 38.8 hours in eastern Germany in 2011. In total, agreed weekly working hours rested at 37.7 hours from 2009–2011 (37.6 hours in 2008).

As shown above, however, collective agreements concluded or prolonged in 2011 also provide for partial retirement schemes, working time corridors or working time accounts. The social partners also have the possibility to deviate from the collectively agreed working time under certain circumstances (e.g. by using opening clauses) in 2010.

### *Actual weekly working hours*

Actual weekly working hours in Germany averaged 40.5 hours in Germany in 2010 (2009: 40.1 hours), as the LFS data shows ([TN1106010S](#)). Longer hours were only worked in Luxembourg (40.8 hours) and Romania (41.3 hours) in 2010.

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