



# Germany: Developments in working life 2016

[Developments in working life in Europe:  
EurWORK annual review 2016](#)

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The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75 to contribute to the planning and design of better living and working conditions in Europe.

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## Political context affecting working life aspects

The federal government, in place since fall 2013, is formed by the Christian Democratic Union (Christlich Demokratische Union, CDU) in alliance with its Bavarian sister party Christian Social Union (Christlich Soziale Union, CSU) and the Social Democrats (Sozialdemokratische Partei Deutschlands, SPD). In the beginning years of the coalition several reforms were introduced; the most important ones were the introduction of a statutory minimum wage, a package of legislative amendments for strengthening collective bargaining, new retirement regulations and new regulations on parental leave. In 2016 the dynamic in legislative reforms was low compared to the previous years; a long standing dispute was solved by an amendment to the Act on Temporary Agency Work. New legislation on working time is to be expected in 2017. The next federal elections will be staged in September 2017.

In 2016, regional elections took place in five out of 16 federal states, which had resulted in a surprisingly strong growth of the right populist party Alternative for Germany (AfD). AfD, however, has in no state entered the government. A second new development has been the very new composition of regional government coalitions: In Baden-Wuerttemberg, a first coalition of Greens and Christian Democrats was formed; in Berlin a first coalition of Social democrats, Greens and Left, in Rhineland-Palatine a first coalition of Social Democrats, Greens and Liberals was agreed and in Saxony-Anhalt Christian Democrats, Social Democrats and Greens set up a government coalition. Only in Mecklenburg-Pomerania, the government is composed of established partners – Christian democrats and Social Democrats. In 2017, three more regional elections will be held before the federal election in September 2017, the most important will be the election in North-Rhine Westphalia in May 2017.

### The government(s) in office during 2016

Government 1	
In office since / to	2013
Name of the head of government (prime minister / chancellor / ...)	Angela Merkel
Name all the parties that are forming this government	Christian Democratic Union (CDU)/Bavarian sister party Christian Social Union (CSU) in coalition with the Social Democratic Party (SPD)
List the changes in the composition of the government in 2016	No changes
Additional comments	Opposition in Parliament: The Left (Die Linke) and the Greens (Grüne/Bündnis 90)

### Elections and referenda

Election 1	
When did the elections take	13 March, 4 September, 13 September

place?						
What kind of election it was? (parliamentary / presidential / referendum / local / ...)	Elections in five out of 16 federal states (Baden-Wuerttemberg, Rhineland-Palatinate, Saxony-Anhalt, Berlin and Mecklenburg-Pomerania)					
Outcomes of the election (mention also % of the votes achieved by the major participants in the election)		CDU	SPD	Green	Left	AfD
		%				
	Baden-Wuerttemberg	27.2	12.7	30.3	2.9	15.1
	Berlin	17.6	21.6	15.2	15.6	14.2
	Mecklenburg	19.0	30.6	4.6	13.2	20.8
	Rhineland-Palatinate	31.8	36.2	5.3	2.8	12.6
	Saxony-Anhalt	29.8	10.6	5.2	16.3	24.3
Additional comments	The strong results of the new right populist party Alternative for Germany came as a surprise, stirred shock waves and affected the subsequent policy debates					

### **Forthcoming significant elections or political events in 2017**

The federal election will be held in September 2017

Before, in March and May, the federal states of Saarland, Schleswig-Holstein and North-Rhine Westphalia will stage their regional elections.

### **Reactions from the social partners on new government's working life policies**

Not applicable.

### **Developments in social dialogue and collective bargaining 2016**

#### **Major developments in national/peak-level social dialogue 2016**

*Changes affecting the social dialogue actors and institutions in 2016*

#### **Representativeness**

There were no changes in the regulation of the representativeness of the trade unions or employer organisations in 2016. Since 10 July 2015, the Act on Collective Bargaining Unity (Tarifeinheitsgesetz) is in force which stipulates that in case more than one trade union cover the same group of workers in a company, in case these trade unions do not cooperate in collective bargaining for reaching a joint agreement and in case the employer concludes conflicting collective agreements with these trade unions, only the collective agreement reached by the trade union with the largest membership in the company shall be applied. The legislation is backed by some, but not by all trade unions. The latter fear that the legislation affects their right to strike for an agreement and their right to conclude an applicable collective agreement. Several trade unions have filed complaints with the Constitutional Court.

## Major developments affecting the main actors

There were no major developments affecting the main actors.

## Legislative or institutional changes to the main social dialogue institutions

There were no changes.

### *Changes in the social dialogue processes*

There was no major change in practice of national level social dialogue processes.

### *Main social dialogue topics and outcomes in 2016*

Themes	Description of issue	Main result
<b>General labour market topics</b>	No major issues debated in this area.	
Job creation, reduction of unemployment		
Active labour market policies		
Benefits (unemployment, sickness schemes)		
Taxation and non-wage related labour costs		
Pension reforms		
Labour market participation of different groups		
<b>Working life related themes</b>		
Wage setting systems, including the setting of minimum wages	<a href="#">The Minimum Wage Commission</a> agreed on the new level of the statutory minimum wage and recommended the level to the Labour Minister.	Starting 1 January 2017, the statutory minimum is 8,84 gross Euro/hour rather than 8,50 Euro.
Working time regulations	Federal labour minister <a href="#">consulted</a> social partners on their views on future forms of working time.	Fed into the draft of the labour ministry's White Book on digital work ( <a href="#">Arbeiten 4.0</a> )
Terms and conditions of employment, including different forms of contracts		
Health, safety and well-being at work		
Work-life balance related themes, incl. family leaves		
Skills, training and	DGB and BDA together with the	Joint statement " <a href="#">To</a>

employability	German University Rectors' Conference (Hochschulrektorenkonferenz, HRK) debated labour market prospects of young academics.	<a href="#">further improve the employability of university and college graduates</a> "
<b>Any other relevant themes/topics addressed in the national level/peak level social dialogue</b>		

### *Examples of selected significant social dialogue debates*

#### **New Minimum Wage Commission took its first decision**

Under the Minimum Wage Act (Mindestlohngesetz, MiLoG), every two years a bilateral minimum wage commission adjusts the level of the minimum wage, with the mean of the previous two years' collective bargaining rates as an index. The commission is composed of three representatives of the trade unions and three of the employer organisations plus two academic experts. Ultimately, the federal government takes the final decision on the wage level.

In 2016, the Commission took its first decision ever. The minimum wage was raised from 8,50 Euro to 8,84 hour starting 1 January 2017.

#### **Trilateral statement addresses tertiary education and future labour market options of academics**

In July 2016, the Association of the German University Rectors HRK, the Confederation of Employer Organisations BDA and the Confederation of Trade Unions DGB published a joint statement saying that they all will contribute to the further development of the future relevance of academic education. The signatory parties endorse the view of the German Council of Science and Humanities that it is the duty of the universities to take four central dimensions into account: academic discipline, personal development, preparation for the labour market and social engagement skills.

### **Sectoral and company level social dialogue 2016**

#### *Main developments - other than wages and working time - from important collective agreements or bargaining rounds*

The United Services Union (Vereinte Dienstleistungsgewerkschaft, ver.di) and the Berlin based hospital Charité reached an agreement on [health prevention and staff policy](#) that establishes a bilateral health committee to monitor health strains such as overtime, working hours beyond agreed overtime or stress because of lack of staff or poorly qualified staff. The committee shall develop the indicators for monitoring the working conditions and employment situation and shall set minimum standards.

#### *Examples of innovative collective agreements (at any level) made during 2016*

An [agreement](#) concluded by the Transport Workers Union (Eisenbahn- und Verkehrsgewerkschaft, EVG) and railways company Deutsche Bahn (DB) provides the new option to choose between a pay rise, a reduction of the weekly working time by one hour per week or six additional days of vacation (so-called EVG Wahlmodel).

## Policies and actions to address pay-inequalities

### The recent public debate on pay gaps at the workplace

#### Gender Pay Gap

According to the Federal Statistical Office (destatis), the [unadjusted gender pay gap](#) in Germany was some 21% in 2015, while there were great differences between the western (23%) and eastern (8%) parts of the country. Destatis compares men's average hourly earnings to those of women. However, when these figures are controlled for variables such as the number of hours worked, choice of occupation, sectors worked in etc., the pay gap decreases considerably. In 2010, the latest year for which data is available, this adjusted pay gap was [7%](#).

To lower the gender pay gap, the Federal Ministry of Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) has drafted a new law ([Entgelttransparenzgesetz](#)) aimed at increasing the transparency of corporate wage structures (For details see below)..

According to Ms Manuela Schwesig, the Federal Minister concerned, the law will give [14 million employees](#) a right to this information.

Moreover, the federal minister has started a tripartite dialogue on the pay structures in collective agreements and on the pay levels of female dominated occupations and tasks compared to male dominated occupations.

The [Confederation of German Trade Unions](#) (DGB) has welcomed the proposal while at the same time stressing that it is not far-reaching enough. The DGB demands that gender-related disadvantages be reviewed and systematically removed, at least in companies with more than 500 employees.

The [Confederation of German Employers' Associations \(BDA\)](#), the [ifaa](#), a research institute, and [the Cologne Institute for Economic Research \(IW\)](#) have criticised the law as too bureaucratic and unhelpful. Their main criticism relates to the additional costs involved and the employee unrest these changes could provoke. In addition, they point out that the law fails to tackle the reasons for the differences. Instead of these measures, the employers demand a further expansion of day-care and kindergarten facilities to enable women to work more or nearly full-time and thus improve their career opportunities.

#### Temporary Agency Work

Under the anti-discrimination legislation and the legislation on temporary agency work (Arbeitnehmerüberlassungsgesetz, AÜG, originally from 1972 and last changed in 2017) temporary agency workers have the right to equal pay. However, if wages are stipulated by collective wage agreements these agreements may deviate from this regulation. Wages of temporary agency workers are set by collective agreements concluded by the employer organisations of the temporary agency work sector and by a joint wage bargaining commission by the trade unions of the DGB and led by DGB. For bridging the pay gap between this agreed basic wage of temp workers and the agreed sectoral wage levels of standard workers, the German Metalworkers' Union (IG Metall), the Mining, Chemical and Industrial Union (IG BCE) and the Transport Workers Union (EVG) and ten sectoral employer organisations conclude additional wage agreements on on-top payments. The adoption of new rules on temporary agency work stirred heated debates amongst social partners in 2015 and 2016.

For more details (including the social partners' positions), see [Germany: Compromise struck on new temporary agency work legislation](#).

Part of the debate on new temporary agency work legislation was also the usage of service contracts in Germany. The first draft of the new legislation also included [stricter rules on contracted work](#). As social partners have long had divergent opinions on this topic, the original bill was changed and many clauses on further regulating service contracts were dropped. For more detailed information, please see [Germany: New evidence on the scope of service contracts feeds into social partner debate](#).

## **Positions regarding the posted workers directive**

### *Positions of trade unions*

The DGB holds that a revision of the rules on posting workers [is definitely needed](#). In contrast to the European Member states that had criticised the European Commission's proposal, the DGB stresses that this issue should be regulated at the EU rather than national level. Though the DGB welcomes a revision, it also wants the regulations to go 'a step further', calling for the rules to be tightened to avoid abuse and the bogus posting of workers by improving controls and limiting the posting period to less than 24 months (as proposed by the EC). Regarding pay, the DGB advocates the principle of "equal pay for the same work in the same place". As already stated, the DGB, amongst other things, wants to introduce stricter controls for employers, in order to avoid wage dumping practices (such as manipulating working time records or not paying wages or not applying collective bargaining agreements to posted workers). In addition, the German Trade Union for the Building, Forestry, Agriculture and the Environment (IG Bau) warned against the negative effects of the 'yellow card procedure'. IG Bau fears that if the EC proposal was not implemented, posted workers would have to work for lower wages and accept worse working conditions when [working in foreign countries](#).

### *Positions of employers organisations*

The BDA rejects the EC's new proposal for posted workers, maintaining that the existing regulations are sufficient. The employers insist that the problem lies not with the existing legislation but with its implementation. Furthermore, the BDA points to the enforcement directive from 2014 that still awaits implementation and could be endangered by the new EC proposal. Though the employer organisation rejects the new proposal, it takes no issue with the level at which it should be implemented within the EU. In 2016, the Bavarian employers' association vbw released a position paper on the EC's proposal arguing that the EC's new proposal endangered the European single market, freedom of movement and the ongoing development of the European labour market. Regarding pay, the vbw wants some specific formulations to be broadened. For example, the vbw stated that instead of stipulating in the EC proposal that posted workers receive minimum wages including pay for overtime, the proposal should only state that posted workers receive wages including pay for overtime and excluding occupational pension. Such a clause should also only hold, if a collective wage agreement exists that was declared generally binding.

### *Position of the government*

The Federal Minister for Labour and Social Affairs, Mrs Andrea Nahles, [supports the revision](#) of the posted workers regulations. Mrs Nahles was one of the national labour ministers who requested the EC to review the Posted Workers Act. The Federal Labour Minister explained that increased (poverty) migration went along with people working as posted or TAW workers and trying to earn better wages in other countries – also accepting inhuman working conditions. To avoid such practices, Ms Nahles called for the implementation of legislative or collective framework that secured minimum social standards and national minimum wages. Though European revisions of the posted workers regulation is needed in Mrs Nahles' view, the subsequent implementation of any such rules is the domain of national member states.



The EC's proposal has also been [debated in the German Bundesrat](#), the upper house of the German parliament, where the federal states are divided on the issue and expressed positions varying from agreement in North Rhine-Westphalia and Brandenburg to rejection in Bavaria. Bavaria for example explained that it was not the competence of the EC to introduce minimum wages for posted workers and the more general term of pay had to be used instead.

## Pay gaps at the workplace

### *Evidence*

In addition to the destatis analysis presented above, the Bertelsmann Foundation has released new research on reasons for pay inequalities. Compiled in cooperation with the ifo institute in Munich, the study "[Growing pay inequality in Germany](#)" looks into (real) wage development from 1985 to 2010. The following drivers for rising wage inequalities are named by the research:

43% of the growth in pay inequalities can be explained by the declining collective bargaining coverage. The proportion of companies covered by either a sectoral or company-level collective bargaining agreement decreased from 60% in 1996 to 35% in 2010.

A further 30% of the growth is attributed to an increasing number of highly qualified aged employees. Traditionally, the wages of this subgroup show the highest differentials.

The relation between the growing wage inequality and increased international trade is considered a minor factor with an explanatory power of just 15%.

The University of Duisburg in cooperation with the Institute of Social and Economic Research (WSI) within Hans-Boeckler-Foundation conducts a [research project on the comparable worth](#) of female and male dominated occupations which aims at reanalysing and reshaping agreed pay structures. Based on the BAUA/BIBB Employee Survey conducted by the Federal Institute for Occupational Health and Safety (BAUA ) and the Federal Vocational Training Institute (BIBB ), the researchers have in a first step constructed a [gender-neutral index](#) on the tasks, demands and physical and mental strains of occupations for testing the devaluation hypothesis.

The studies controlled for variables, such as educational level, occupation, age, but also firm size and sector, collective bargaining coverage, exports. They used the Linked Employee-Employer-Database from the IAB. This data includes cross-sectional information on individuals and establishments.

To our knowledge, there have been no reports by labour inspectorates on this topic. However, [in 2013](#) the Federal Anti-Discrimination Agency released a (one-off) [report on the gender pay gap](#), providing statistics and describing and explaining the gender pay gap in Germany, the EU and worldwide. The report sees a need for action on many fronts, calling for equal wages for equal jobs, a proportional payment for part-time jobs and more transparent salary structures within companies. Apart from the destatis data for the gender pay gap in Germany, quoted above, the report also analyses data from EUROSTAT, the European Commission and the OECD.

In a statement issued in June 2016, the Cologne Institute for Economic Research (IW) saw no need for [legislative changes](#), pointing out that if other factors were properly controlled for the adjusted gender pay gap shrank to 3.8%. The differences in pay between men and women could mainly be attributed to individual choices (of occupation, of working hours, etc.). In the view of the IW researchers, new legislation would not change the factors underlying these individual choices.

In contrast, the WSI staged a [conference on the methodologies of monitoring social inequalities between men and women](#) and also released a [report about the causes and effects of the gender pay gap in 2016](#). The report argues that the adjusted gender pay gap was not an appropriate benchmark. Though parts of the gap could be explained by individual variables (such as choice of occupation, part-time work, etc.), these were in turn predetermined by discriminatory social customs and practices, such as women still taking on the greater share of family responsibilities and informal working hours at home. The WSI regards collective wage agreements as an important factor in decreasing the gender pay gap.

### *Policies to address pay inequalities at the workplace*

#### **Gender Pay Gap**

To lower the gender pay gap (describes in the sections above), the BMFSFJ has drafted a new law ([Entgelttransparenzgesetz](#)) aimed at increasing the transparency of corporate wage structures. The draft legislation was adopted by the federal cabinet on 11 January 2017 and is expected to come into force in summer 2017.

The main features of the new Act are:

- In companies with more than 200 employees there will be an individual right to information on pay structures. Companies of this size are obliged to explain their pay criteria to any employee requesting this information.
- Private sector employers with more than 500 employees will have to compile reports on their pay structures and wage equality in their company. These reports will be publicly accessible.

According to Ms Manuela Schwesig, the Federal Minister concerned, the law will give [14 million employees](#) a right to this information.

Moreover, the federal minister has started a tripartite dialogue on the pay structures in collective agreements and on the pay levels of female dominated occupations and tasks compared to male dominated occupations.

The [Confederation of German Trade Unions](#) (DGB) has welcomed the proposal while at the same time stressing that it is not far-reaching enough. The DGB demands that gender-related disadvantages be reviewed and systematically removed, at least in companies with more than 500 employees.

The [Confederation of German Employers' Associations \(BDA\)](#), the [ifaa](#), a research institute, and [the Cologne Institute for Economic Research \(IW\)](#) have criticised the law as too bureaucratic and unhelpful. Their main criticism relates to the additional costs involved and the employee unrest these changes could provoke. In addition, they point out that the law fails to tackle the reasons for the differences. Instead of these measures, the employers demand a further expansion of day-care and kindergarten facilities to enable women to work more or nearly full-time and thus improve their career opportunities.

#### **Temporary Agency Work**

After heated debates in 2015 and 2016, [new temporary agency work legislation](#) will come into force on 1 April 2017. The new law will restrict the length of hiring time to a maximum of 18 months with the same employer. However, the legislation also allows collective and internal agreements (*Dienstvereinbarungen*) to make exceptions. In addition, the rules concerning pay parity have been clarified, with temporary agency workers receiving the same wages as core workers after 9 months of employment with a client company. Employee representation has been strengthened by the new legislation, as employers are now obliged to make known exactly how many temporary agency workers the company has hired and this number will be added to the permanent workforce when determining the number of worker representatives at company level and on the supervisory boards of large companies. For more

details (including the social partners' positions), see [Germany: Compromise struck on new temporary agency work legislation](#).

### ***Social partner's involvement in addressing pay inequalities at the workplace***

As described above, the introduction of all three major laws (on the minimum wage, gender pay gap and temporary agency work) was accompanied by heated debates between the social partners, whose views were heard in all three cases. A commission set up to look into adjustments to the minimum wage on a biannual basis included representatives of the social partners. The commission met for the first time in 2016 and recommended a minimum wage of 8.84 Euro, which was duly implemented on 1 January 2017. Whilst the DGB could celebrate the introduction of a national minimum wage, for which it had been campaigning since at least 2008, the employers successfully demanded significant changes to the new legislation on temporary agency work.

With the introduction of the national minimum wage, the federal government has set a wage floor for the first time in post-war Germany and it remains to be seen how this will affect industrial relations and the social partners' collective bargaining autonomy. With collective bargaining coverage declining, legislators may fill the gaps that are in their view not properly covered by the social partners.

Regards pay inequalities, research highlights (see Bertelsmann and WSI report above) that gender pay gaps are lower if collective agreements are in place. With this in mind, when presenting the government white paper on *Working 4.0* in 2016, the Federal Minister for Labour called for a revitalisation of collective bargaining and in particular an increase in the currently declining coverage rate.

## **Promoting the reconciliation of working families and caregivers**

### **Recent policies**

15 July 2015 saw the introduction of the so-called Parental Allowance Plus ([Elterngeld Plus](#)) to supplement the already existing Parental Allowance ([Elterngeld](#)), introduced in 2006. The new measure offers more flexible solutions for parents wanting to work part-time.

The Parental Allowance ([Elterngeld](#)) enables parents to compensate for the loss of income consequent upon the birth of a child. The subsidy is open to both parents and is paid for a maximum of 12 (for one parent) or 14 months (for both parents together). The benefit ranges between 300 and 1,800 Euro depending on income. The Parental Allowance Plus ([Elterngeld Plus](#)) is payable if the parents work part-time, in which case the support is extended for up to 24 or 28 months [depending on their working hours](#).

### ***Rights to request special working time arrangements, place of work etc.***

In July 2015, a new measure called family working time ([Familienarbeitszeit](#)) came into force. It offers support to parents who reduce their working time to 80%-90 % of their full-time position (i.e. between 28 and 36 hours/week). 150 Euro per month is paid to each parent for up to 24 months. The new benefit is designed to make it easier to combine parenting and working life.

### **The role of collective agreements**

There are no hard data to our knowledge.

Qualitative issues (such as the work-life balance) have gained in importance in collective bargaining over the last decade. The social partners in several industries have introduced clauses that allow a better reconciliation of work and family life, whether this involves parenting or caring for other family members. Whilst flexible working time arrangements,

working time accounts and mobile work or tele-work are the usual means of tackling these issues, a life-cycle approach to employees' working lives lies behind many of these clauses. The clauses can be very diverse; ranging from telework, flexible working-time arrangements or saving up hours in long-term working time accounts for care periods, partial retirement options (possibly also including a wage top up). Sectoral collective bargaining often delegates arranging the details to the social partners at the establishment level (in order to fit the individual firms' situation).

Employees benefit from such arrangements by being able to work and simultaneously take care of family issues, while employers are motivated by the need to retain well-qualified personnel. Concrete [examples](#) of these employment conditions can be found in the demography agreements in the chemical industries and at Deutsche Bahn, the main German railway company. Demography agreements in the chemical industries for example make use of a cafeteria system. Meaning that companies in the industry form annual funds that they can later use for [different options](#). Options include: investing into old-age pensions, working time accounts, occupational disability insurance, partial retirement schemes and partial retirement pensions. A sixth option was introduced in 2010, the so-called RV-80 scheme. The tool can be used to retain older workers longer. The new model supports aged employees who want to reduce their full-time positions by 20%. This option can be introduced for shift-workers and regular workers. However, the new tool can also be used for younger employees who would like to reduce their working time at certain life stages, e.g. for training periods, parental or elderly care leaves. In 2013, the pharmaceutical company Boehringer Ingelheim concluded a works agreement on care responsibilities. The agreement explains the right procedure, if care responsibilities arise (also for fieldstaff or shift-workers). Paid leaves are possible as well as taking so-called family leaves (also in part-time). Even before this works' agreement, the company had made use of flexible working time arrangements, tele-work and taking care of affected employees' special needs for holidays/days off or further training. This offer goes along with an individual counselling on care matters.

WORKING PAPER

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