

GERMANY

Public Policy

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TABLE OF CONTENTS

| | |
|--|----|
| In-Country Policy Context | 2 |
| Policy Overview— Dimensions of Quality of Employment | 3 |
| Contextual Focus— Improvement of employment chances for older people | 15 |
| Implications for Quality of Employment | 14 |

This policy brief discusses employment laws in Germany, with a particular focus on policies related to the employment of older workers, as it relates to the dimensions of the quality-of-employment framework. Rather than discussing all employment policies, this policy brief will highlight the most significant legislation in order to provide a general introduction to current policies as they relate to quality of employment in contemporary Germany.

This brief includes four sections:

- An in-country policy context that introduces the reader to the policy background of Germany.
- A discussion of the dimensions of quality employment, providing an overview of the major public policies affecting each dimension.
- A contextual focus on measures to increase employment for older people, highlighting the most important employment promotion measures laid down in the “Act” on Improving Employment Chances for Older People. This section will also examine the relevance of regional employment pacts.
- A brief conclusion on the implications of policy for quality of employment in Germany.



This brief uses the Quality of Employment Framework to discuss the effect of public policies in Germany.

IN-COUNTRY POLICY CONTEXT

The German economy is one of the largest in Europe in terms of nominal GDP, and the fifth largest in the world in terms of purchasing power parity.¹ In 2008, the German economy started to shrink. Like other industrialized countries, Germany was affected by the challenges of the world-wide financial crisis. During this deep recession, real GDP declined by 6.7%, comparatively more than the average decline of 4.8% in the OECD countries.² The Federal government met the crisis with the Financial Market Stabilization Act and its follow-ups and other economic stimuli, e.g. the commuter allowance. These measures contributed to stabilizing the German economy.

The effects of the crisis have also been obvious in the labor market. In spite of the sharp decline in output, employment and unemployment rates remained relatively stable. The employment situation was slightly reduced in 2009, however, there is a difference between full and part-time employment. While full-time employment as reduced considerably, part-time employment, particularly the form of “minor” employment, increased.³ In terms of unemployment, the picture was similar. Unemployment barely declined from the annual average in 2009 by 0.9 percentage points from 7.9% at the start of the recession to 7.0% in May 2010.

This moderate reduction can be traced back to the effective use of labor market instruments such as earlier labor market reforms and increased hiring/retention flexibility on the company level. Specifically,³ the easing of the short-time employment allowance has cushioned a higher increase of unemployment, since firms have substantially reduced working time instead of laying-off their staff. Estimates by the OECD from 2010² indicate that by the third quarter of 2009, using short-time allowances may have saved over 200,000 jobs.

With respect to the labor market, Germany faces, along with other industrialized countries, the challenge of an aging population. The labor force potential is expected to decrease by 1.8 million persons between 2010 and 2020 and by a further 1.8 million persons by 2050. Employment in Germany is expected to increase by nearly 400,000 persons by 2020. Thereupon, employment is expected to decrease demographically by 500,000 persons by 2025.⁴

The inclusion of women as part of the labor market in Germany has steadily increased over the past decades. Compared to other European countries, Germany does not belong to the European front-runners in terms of female employment. The increase in the employment rate of women, however, must be viewed under age specific aspects. There has been a tremendous increase in the employment of older women.

Whereas the overall female employment rate increased during the period 2000 to 2007 by 6.2%, the rate for older women aged 55 to 64 years increased by 14.9%.⁵ There is also the fact that women, especially mothers, are employed part-time.

Notwithstanding, gender differences still exist in the labor market in Germany. The employment rate for women is still below the rate for men. Women earn on average less compared to men, and family duties are not equally distributed between the sexes. Hence, these gender specific problems are mirrored by a higher risk of long-term unemployment and old-age poverty for women.

Current employment prospects for older workers (55-64 years) in Germany are modest, but positive. The employment rate has steadily increased in past years. The positive trends can be traced back to the introduction of new labor market instruments to promote employment of people aged 50 and older. However, their effects are still limited. Possibilities for leaving the labor market earlier still exist, even when limited and financially unattractive.

Main labor market reforms in Germany over the past years include:

- Acts on Modern Services on the Labor Market (2003-2005):
 - First Act on Modern Services on the Labor Market, 2003*
 - Second Act on Modern Services on the Labor Market, 2003*
 - Third Act on Modern Services on the Labor Market, 2004*
 - Fourth Act on Modern Services on the Labor Market, 2005*
- Act to Improve Employment Chances for Older People (2007)
- Act aiming to adjust the minimum pension age in line with demographic change and to place the statutory pension insurance on a sounder financial footing (2007)
- Health and Safety at Work Act (1996)
- Posting of Workers Act (1996/2009)
- Act on Part-time and Fixed-term Employment (2001/2007)
- Parental Leave Act (2007)
- General Equal Treatment Act (2006)

POLICY OVERVIEW

DIMENSIONS OF QUALITY OF EMPLOYMENT



➔ Indicators of Fair, Attractive, and Competitive Compensation & Benefits

Employees' basic needs are secured, and fair and equitable distribution of compensation and benefits among employees is promoted.

Overview

Germany possesses a broad social welfare system that provides benefits for people unable to work, households, and people in need. There are numerous regulations on pensions or benefits for children and parents. Most wages are set by collective bargaining. There is no overall general minimum wage in Germany, however, single regulations exist for certain branches.

Social assistance and basic security benefit for job seekers

Social subsistence assistance is available for all persons who are unable to meet their own needs or who are not able to work. This aspect distinguishes the benchmark for who receives benefits from which system and has been used since the comprehensive reform of the social assistance law by the *Fourth Act on Modern Services on the Labor Market* (Viertes Gesetz für moderne Dienstleistungen am Arbeitsmarkt). The previously existing social assistance allowance was modified. The regulations are now covered under Book XII of the Social Code, which is divided into seven chapters regulating benefits for specific living circumstances: a) Subsistence Assistance (Chapter III), b) Basic Security in Old-age and Reduced Earning-Capacity (Chapter IV), c) Benefits for Health (Chapter V), d) Integration Subsidies for Disabled People (Chapter VI), e) Benefits for Care (Chapter VII), f) Benefits for Overcoming Social Difficulties (Chapter VIII) and g) Benefits in Other Living Circumstances (Chapter IX).

Financial provisions are tailored to meet individual needs, taking into account the clients' circumstances. Assistance is provided in the form of social services, cash benefits to cover living expenses, and benefits in kind. The benefit amount is adjusted. These standard rates are based on the statistical foundation of the consumption of the lower 20% of benefit recipients. They vary between the German federal states.⁶

Furthermore, the separate Book II of the Social Code for jobseekers, 15 to 64 years who are able to work, was created by the *Fourth Act on Modern Services on the Labor Market*. People who are capable of work, but not eligible for unemployment benefits receive the *Basic Security Benefit for Job-seekers* (Grundsicherung für Arbeitssuchende). With the new regulation, these people can no longer claim social subsistence assistance (for people unable to work), which was previously combined. The provided benefits and services are in monetary and non-monetary form. The actual regular monthly benefit amount is 359 € (\$461USD). Additionally, costs for housing and heating are paid. A temporary supplement can be paid for up to 24 months to cover financial burdens.⁷ The main focus is to overcome benefit dependency by integration in the labor market through participation in various labor market programs. Beneficiaries are obliged to accept any job or training offer from the municipality. Moreover, they personally need to register as unemployed and available for the labor market.

Housing benefit

Housing allowance is a state grant to help cover the costs of housing. It can be paid to tenants in the form of rent support or to homeowners in the form of home maintenance support. The current legislation was changed in 2009 by taking into account increased energy costs as an integral part of the housing benefit. The benefits are calculated by the sum of the total annual income of all family members belonging to the household.⁸

Pensions

Pensions play an important role in providing people with financial security in old age. Statutory old-age pensions can be claimed by filling certain criteria, including the payment of contributions (for employees and self-employed), for a qualifying period (for a minimum of at least 5 years) and having reached a minimum age limit.

The standard retirement age in Germany is 65 years. Under the 2007 established Act aiming to adjust the minimum pension age in line with demographic change and to place the statutory pension insurance on a sounder financial footing (Rentenversicherungs-Altersgrenzenanpassungsgesetz), the minimum age for the standard pension will be gradually increased to 67 years between 2012 and 2029. The increase of the age limit will help to ensure a sustainable and balanced relationship between the generations as well as to secure the financial basis of the statutory pension insurance.

There are various types of old-age pensions available besides the standard old-age pension. Among others there is a long service pension, where insured people born before 1952 can claim their pension at age 63 after a completed 35 year qualifying period, or the old-age pension for people with severe disabilities or on account of unemployment or after partial retirement. Women born before 1952 can claim old-age pension for women, when they reach age 60 and fulfill a 15 year qualifying period.⁹ For people born 1 January 1952 and later, modified regulations apply.

Basic protection in old-age and reduced earning capacity

The means-tested Basic Protection Benefit for Aged Persons and Persons with Reduced Earning Capacity (Grundsicherung im Alter und bei Erwerbsminderung) provides the fundamental needs of living for persons without income aged 65 years and older or with a disability. This benefit was introduced in 2003 and was based on the Basic Security Act (Grundsicherungsgesetz). Since 2005, the regulation has been based in Book XII of the Social Code.

Child benefit

The Child Benefit Act (Kindergeldgesetz) regulates the payment of the child benefit and is available for anyone with children living in Germany, including foreign citizens with permanent settlement permission. The benefit is paid up to age 18 and, in special cases, that is, if a child is still in education or training, up to 27 years of age. The benefit amount is 184 €, (\$236 USD) for the first and second child; 190 € (\$244 USD) for the third; and 215 € (\$276 USD) for any additional children, effective January 2010.¹⁰

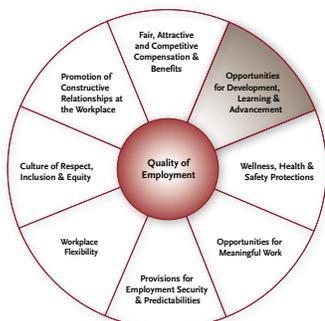
Parental benefit

The Federal Parental Benefit Act (Elternzeitgesetz) became effective in 2007 and applies to all children born from 1 January 2007 onwards. Children born earlier are covered by the old law, the Federal Child-Raising Allowance. The main feature of the parental benefit is its dynamic linkage of the benefit amount to the average earned income after deductions. The benefit is set at 67 percent of the earned family income with a top ceiling amount of 1800 € (\$2310 USD) and a minimum of 300 € (\$385 USD) per month.¹¹

Minimum wage

In comparison to other EU member states, Germany has no general national legislation on minimum wage. Wages are largely set by collective bargaining. However, on the basis of the Posting of Workers Act (Arbeitnehmer-Entsendegesetz), collective agreements, minimum wage can be declared for certain branches, including construction industry, industrial cleaning, postal service sector, security service sector, mining sector, laundry service sector, waste industry, further education sector and care sector. Most of these regulations were established in 2009 and 2010. The newest regulation, which started 1 August 2010, counts for the care sector. The minimum wage level highly varies for each of the single branches. There are also wage differences between the new and the old federal states.

Minimum wages for other branches are regulated by the Minimum Labor Conditions Act (Mindestarbeitsbedingungengesetz). This act, established in 1952 and reformed in April 2009, mainly regulates the allocation of minimum wages for those branches without any existing collective agreement.



➤ Indicators of Opportunities for Development, Learning, & Advancement

Job skill development and advancement are promoted for employees of as many industrial sectors, employment statuses, and life/career stages as possible.

Overview

A qualified workforce is an important advantage in international competition. Against this background, it is important to preserve and promote adequate education as well as possibilities for further vocational training over the whole working life. In Germany, the promotion of further training is based on Book III of the Social Code and counts as one of the most important instruments to increase employment perspectives for employees and job-seekers. Most available programs are carried out by the Federal Employment Agency, the main Public Employment Service provider (PES) in Germany. Parts of the programs are financed through the funding of the European Social Fund (ESF).

In Germany, there are various programs for training employees. The program, *Further Training of Low-Skilled and Older Employees in Companies* (Weiterbildung von Geringqualifizierten und beschäftigter älterer Arbeitnehmer in Unternehmen, WeGebAU), aims to increase the employability and qualification level of disadvantaged groups on the labor market by furthering training participation. Low-skilled workers without professional qualification or with outdated qualifications can receive financial support to update formal qualification. Further training for workers aged 45 and older can be taken over by the PES. The program is now widely used especially by medium and large enterprises to further education. Small enterprises, however, use the program comparatively less.¹²

Short-time allowance

Through the Part-time and Fixed-Term Contract Act (Teilzeit und Befristungsgesetz) workers with temporary contracts can continue their education in order to improve their

labor market prospects. The Act also provides for people receiving short-time allowances. *The Short-time Allowances Act* (Kurzarbeitergeldgesetz) set regulations to allow enterprises to keep their workforce in times of low work demand, i.e., construction firms during winter time. During these times, affected firms can receive a maximum of six months short-time allowance as a compensation allowance through the PES and employers are obliged to continue contribution payments to the social insurance.

During the recent economic crisis, this instrument was highly used as cushioning against unemployment by releasing companies from the duties of continued wage and salary payments. Companies are able to shorten work time instead of layoff. Due to the intensive use of this program, the regulations have temporarily been changed. From the beginning of 2009 up to the end of 2010, social contributions by the employer are halfway refunded during the first six months of short-time and fully refunded from the seventh months onwards; the maximum duration period is 24 months. In turn, times of non-employment should be used for vocational training. In this case, the payments of social contributions by the employer are fully taken over from the beginning of short-time. The contribution payment to unemployment and occupational accident insurance is also temporarily excused.¹³

National pact for education and professional trainees

The comprehensive promotion of education is one of the main tasks of the Federal Ministry of Labor and Social Affairs. In cooperation with leading economic associations the Ministry completed the National Pact for Education and Professional Trainees (Nationaler Pakt für Ausbildung und Fachkräftenachwuchs) in 2004. This pact enables young people the ability to enter work life over vocational education. The common goal of the initiative, which runs to the end of 2010, is to affect the skill shortage by an increased proportion of trainees.¹⁴

Further initiatives for qualified young people are the Apprenticeship Bonus (Ausbildungsbonus) and the Entry qualification (Einstiegsqualifizierung). The 2009 initiative introduced bonuses to give trainees the ability to finish their education in other firms, when they have lost their apprenticeship due to insolvency or closure of enterprises. An entry qualification of at least a six months training period is oriented towards young people with difficult placement prospects. The program serves as an instrument for acquiring basic vocational competences. Employers can receive a financial contribution to their wage and social security installments.¹⁵



➤ Indicators of Wellness, Health & Safety Protections

Protection of employees' safety and health at their worksites is mandated, and their physical and mental well-being is promoted. In the case of job-related injury or illness, compensation or other forms of social protection are offered.

Overview

Germany has a comprehensive health insurance system in which the statutory health insurance covers employees and related family members subject to social insurance contributions. In the case of a work accident or an occupational illness, employees are entitled to the statutory occupational accident insurance, which is provided by the industrial, agricultural and public-sector employer's liability insurance funds. In addition, there are specific regulations to safeguard workers' health and needs that are regulated by the Health and Safety at Work Act. Several regulations like the Working Hours Act focus on particular safety issues at work.

Health insurance

The statutory *Health Insurance* (Krankenversicherung)¹⁶ in Germany covers principally all workers including farmers, students and family members as long as their gross salary does not exceed a defined upper limit. These insured persons can freely choose their insurance fund. Beyond the statutory health insurance, voluntary health insurances are open for self-employed persons and private insurance funds are available for civil servants.

The statutory health insurance covers a wide spectrum of benefits. The insured person can call their doctor/dentist of choice. They are provided with in-kind benefits such as medications or hospital treatments. Cash-benefits include the payment of sickness benefits in cases of absence from work due to illness regulated by the *Continuation of Pay Act* (Lohnfortzahlung im Krankheitsfall) or the payment of the maternity benefit. The legal framework is contained in Book VII of the Social Code.

The statutory health insurance is financed through half contributions from employers and half from insured employees. The generally applicable contribution rate for statutory health insurance is 14%.¹⁶

Occupational accident insurance

Germany's Occupational Accident Insurance (Unfallversicherung)¹⁷ covers all persons employed or in training, including farmers, students, school children, and children in nursery school. Self-employed people can obtain coverage on a voluntary basis that is similar to the health insurance. Special regulations apply for civil servants. By contrast to the health, long-term care, pension and unemployment insurance, statutory occupational accident insurance is contribution-free for those insured; instead the costs for the comprehensive insurance coverage are fully borne by employers. The contribution rate is determined on the basis of the employers' expenditure in prior years. For public-sector jobs, the federal, state and municipal governments carry the costs. The legal framework is contained in Book VII of the Social Code.

In case of work-related accidents or illness, the insurance pays for full medical treatment, provides occupational or social integration assistance or cash benefits in the form of a pensions, and nursing care allowances and funeral allowances.

Health and safety at work

Employers are mainly responsible for health and safety at work. This includes protecting staff from hazards as well as setting up and maintaining workplace and equipment stability. *The Health and Safety at Work Act* (Arbeitsschutzgesetz) encourages employers to assess workplace hazards and, insofar as it is necessary, to set preventive measures or provide preventive occupational health care. The Act gives employees the right to leave their workplace in the case of danger without fear of losing their jobs. Moreover, it provides a basis for official complaints to inspectors.¹⁸

The *Working Hours Act* (Arbeitszeitgesetz) regulates the length of the work day, minimum breaks during working hours, and minimum periods of rest after work for the protection of workers' health and safety. There are specific regulations for night workers. The Act generally prohibits work on Sundays and holidays, however, there are exceptions.

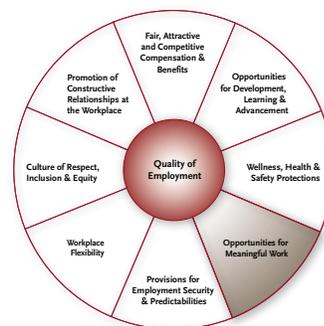
There are special regulations for children and young people as well as for working mothers. Persons aged 15 to 17 have the right to go to work, but enjoy protections

against overwork by the *Protection of Minors at Work Act* (Jugendarbeitsschutzgesetz). The Act regulates the minimum work age, the maximum possible work time, and how much annual holiday must be granted. Working mothers are protected by the *Protection of Working Mothers Act* (Mutterschutzgesetz), which contains regulations to protect mothers and their children from hazards, overwork and damage to their health in the workplace.

Further regulations in this area include:

- The *Video Display Workstation Regulations* (Bildschirmarbeitsverordnung),
- The *Workplace Safety Regulations* (Betriebssicherheitsverordnung),
- The *Workplace Regulations* (Arbeitsstättenverordnung),
- The *Equipment and Product Safety Act* (Gerätesicherheitsgesetz), and
- The *Hazardous Substances Regulations* (Gefahrstoffverordnung).

Moreover, each year the Federal Ministry of Labor and Social Affairs announces activities relating to work health and safety by its program of “model projects” to combat occupational diseases.

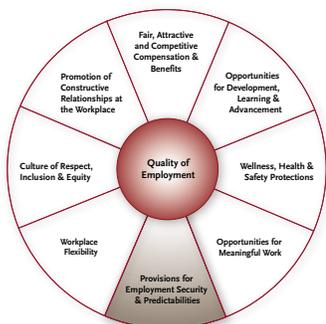


⇒ Indicators of Opportunities for Meaningful Work

Opportunities for meaningful or fulfilling employment are promoted through facilitating appropriate job-skill matches, self-realization through occupation, or community participation away from routine work.

Overview

In the German legislation, there is no specific focus on meaningful and fulfilling work, however, a few initiatives do exist. One initiative is the 2002 *New Quality of Work Initiative* (Neue Qualität der Arbeit, INQA). This project is based on cooperation between the Federal government, the Federal states, social insurance institutions and social partners. It focuses on the promotion of a new quality of work. In this context, a secured, healthy and complete workplace is seen as an important factor in coping with future challenges and related side-effects for the labor market. The initiative focuses on areas such as demographic change, health care, lifelong learning, stress, office work, promotion of health, and so on.¹⁹



➔ Indicators of Provisions for Employment Security & Predictability

Stable provision of employment opportunities for job seekers is promoted, clear communication of terms of employment is facilitated, and protecting the job security of the employed is a policy objective.

Overview

Employment security and employment promotion are highly valued in Germany. Labor Law regarding protection against dismissals secures the main protections for employees. The employment promotion policies based in Book II and III of the Social Code are focused on improving employment chances for people without work. The Federal Employment Agency (PES) and its regional agencies conduct these policies.

Labor law

The *Labor Law (Arbeitsrecht)*²⁰ protects both blue-collar and white-collar employees. The law is divided into two sub-categories. First, the collective labor law applies to the legal relations between unions and employer associations at company and sub-company levels via collective agreements. Wage levels, working hours, holiday entitlements, and other work conditions are also covered by such agreements. Second, the individual labor law governs the relation between single employers and single employees and regulates different aspects of work conditions. A number of different laws ensure certain minimum rights, including the *Federal Holidays Act (Bundesurlaubsgesetz)*, the *Continuation of Pay Act (Lohnfortzahlungsgesetz)* that secures pay during sick leave, and the *Unfair Dismissal Protection Act (Kündigungsschutzgesetz)*.²¹

Employees in Germany are also protected by acts administered by the Federal Ministry of Labor and Social Affairs, specifically

minimum wage or the posting of workers. The *Posting of Workers Act (Entsendegesetz)* requires domestic German firms and German firms based abroad who “hire out” to meet legally required work conditions. In certain industries, employers and those who “hire out” are obliged to grant the employee work conditions laid down in collective wage agreements.²²

Unemployment benefits

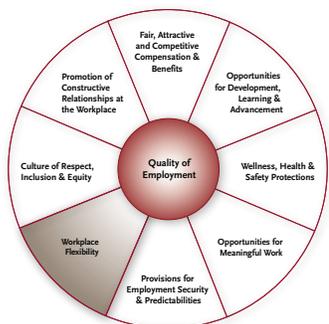
The regulations for receiving unemployment benefits are included in Book III of the Social Code. This book also contains all benefits and measures for the promotion of employment and is thus the basis for the work of employment agencies.

The *Unemployment Insurance (Arbeitslosenversicherung)*²³ is a compulsory insurance for people in paid jobs subject to social insurance contributions. Exemptions count for civil servants and soldiers. Unemployment insurance is financed through the contribution payments of employees (at present 2.8% of the assessable income) and employers, who submit an overall contribution that includes contributions to the health, long-term care and pension insurances.

In order to receive unemployment benefits, certain criteria must be fulfilled. Individuals need to register personally as unemployed at the PES. They must have completed a qualifying period of work in which they contributed at least 12 months of contribution payments within the timeframe of two years. Persons receiving unemployment benefits must actively seek work and be available for the labor market. The benefit amount is 67% of one’s previous net income for persons with at least one child and 60% for persons without children. The maximum duration for claiming benefits is 12 months or 24 months for aged unemployed.

Activation measures

Along with the above-mentioned criteria, unemployed jobseekers have to accept any job or training offered by the PES in order to be activated. Activation measures are used to reintegrate people into the labor market by identifying and eliminating placement obstacles. Unemployed jobseekers with at least six months of unemployment can legally claim to take part in an integration measure. While taking part in such measures, the client receives the unemployment benefit or the basic security benefit in the case of being long-term unemployed.



➤ Indicators of Workplace Flexibility

Availability and utilization of flexible work options are promoted for employees of various life stages through increasing their control over work hours, locations, and other work conditions.

Overview

Flexible work time arrangements are widespread in Germany. The classic form of part-time employment is extended through other forms of flexible work arrangements. Various enterprises offer forms of tele-work that allows people with children a better balance of work/family life. Parents are offered flexible arrangements after the birth of a child. Older workers take advantage of the old-age, part-time regulation that offers the possibility of gradual withdrawal from the labor market.

Part-time employment

In Germany, there are various possibilities for working part-time that offers flexibility for both employers and employees. Beside the labor market focus, there are also family-related and equality aspects. In Germany part-time and fixed-term employment are regulated by the 2001 *Part-time and Fixed-term Employment Contract Act* (Teilzeit- und Befristungsgesetz) adjusted in 2007 after the decision of the European Court of Justice.²⁴

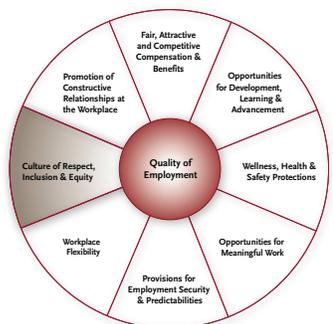
A commonly used option is minor and medium employment. The salary of the “mini” job does not exceed 400 € (\$525) per month, with a small tax and contribution rate. For medium employment the salary does not exceed 800 € (\$1,051) per month and the full social security contribution does not need to be paid. According to this act, minor and medium employed persons count as part-time employees. This secures them the equal labor rights of full-time employees.

Old-age part-time

The *Old-Age Part-time Act* of 1996 (Altersteilzeitgesetz) provides workers aged 55 and older the possibility to reduce their work time by half within a period of three years. This gradual withdrawing has positive effects for both employers and employees. The reduction of working time gives employees the ability to remain in employment under eased conditions. Employers benefit from the slow retirement by keeping knowledge in the enterprise. The reality, however, looks different since most potential retirees used the act as an early retirement instrument. Instead of gradual withdrawal, they work full-time with reduced salary for 1.5 years and then dropped off entirely for the other 1.5 years.²⁵ The end of 2009 phased out the regulation.

Parental leave

The *Parental Leaves Act* (Elternzeitgesetz) regulates the legal leave for employees after the birth of a child. Parents are entitled to an unpaid exemption from work and are, subject to permanent employment contracts, protected against dismissals up to the child’s third birthday. The dismissal protection starts when the parent announces the leave, but not earlier than eight weeks before the beginning of the leave. Both parents can take parental leave up to three years together or separately. In accordance with the employer, it is possible to transfer 12 months out of these three years and take this period between the third and eighth year of the child.¹²



➤ Indicators of Culture of Respect, Inclusion & Equity

Diversity in the workforce and inclusion of less-advantaged populations are promoted, and equity in work conditions is pursued.

Overview

In Germany, discrimination based on specific features of differences is avoided in various ways. From the legal side, Germany has transferred four European anti-discrimination directives into national law. The *General Equal Treatment Act*, established in 2006, is a comprehensive anti-discrimination legislation. In the effort to promote a diverse workforce and include less-advantaged groups, one aspect of the Act focuses on the integration of people with disabilities and persons with migration backgrounds. The promotion of gender equality is based on several regulations; however, in reality, gender differences in the workplace continue to exist.

General equal treatment

The *General Equal Treatment Act* (Allgemeines Gleichbehandlungsgesetz) is focused on countering disadvantages in employment on the grounds of ethnic origin or race, gender, age, disability, sexual orientation, religion, or belief. It standardizes a general discrimination prohibition. The Act also contains regulations that established an anti-discrimination office (ASS)— all Federal agencies and public authorities are obliged to cooperate with the ASS. The main tasks of the ASS are information guidance, counseling, public relations, prevention of discrimination, and carrying out academic studies.

Integration of people with disabilities

One main initiative for integrating people with disabilities is *Jobs without barriers* (Jobs ohne Grenzen) launched in 2004 by the Federal Ministry of Labor and Social Affairs in cooperation with employers, unions, disability associations, and other public authorities. The first period ended in 2006 and the second period ran from 2007 to 2010. The main aim of the program is to enable disabled and severely disabled people better opportunities for participation in work life by targeting training measures as well as workplace prevention measures. Moreover, *Jobs without barriers* provides information and presents best-practice examples.

Disabled people or people at risk of disability also have the possibility of receiving assistance in case they are not longer able to work. Book IX of the Social Code, which came into force in 2001, contains regulations for medical, occupational and welfare benefits, like medical rehabilitation assistance, occupational or social integration assistance, or various non-cash benefits. Occupational assistance is mainly orientated towards vocational training.

Gender equality

Gender mainstreaming and the compatibility of family and work are becoming increasingly recognized in Germany. There are several legal regulations that formally ensure equality between women and men like the *Equal Treatment Act* (Gleichbehandlungsgesetz) of 1980 which prohibits discrimination on the grounds of gender, and the *Equal Opportunities Act* (Bundesgleichstellungsgesetz) of 2001 regulates equal opportunities between men and women in governing authorities or courts.

In 2001 the government and the head economic associations agreed on a voluntary declaration to promote equal opportunities of men and women in private enterprises by offering in-firm measures and qualification perspectives for women and by ensuring sustainable improvement in the work/family paradigm. However only a small number of private enterprises, mainly large companies, offered gender quality measures.²⁶

In reality the pictures differ in Germany. Although a steady improvement in the labor market situation of women, there are still gender-specific differences visible. The employment rate of women is lower compared to the male employment rate. A further aspect is that women in Germany still earn on average less than men. In EU-comparison, Germany has one of the highest wage gender gaps, at 23%.²⁷ Lastly, family duties are not equally distributed between the sexes. All these problems result in higher risks for women of becoming long-term unemployed or poor in old-age.⁶ Single mothers are especially at high-risk of poverty in Germany.

Integration of people with migration background

The *National Integration Plan* (Nationaler Integrationsplan, NIP) creates the basis for integration measures for people with migration backgrounds on the national and local level. Important aspects for their integration are education, training and employment. Most of these measures, e.g., general or occupational language courses, are carried out by the PES. Under the lead of the Federal Ministry of Labor and Social Affairs, a group working on securing good education and training and for increasing labor market perspectives for people with migration backgrounds was recently established.



➤ Indicators of Promotion of Constructive Relationships at Work

Employer-employee frictions and conflicts are mitigated, and constructive workplace relations are facilitated.

Overview

In Germany social partnership plays an important role. However, the labor density is relatively low in Germany compared to Scandinavian countries. Moreover, there is low strike activity among German employees compared to other European countries.²⁸ Negotiations on collective agreements between employers, employees and trade unions are mainly conducted on the sector level. Collective agreements form wage or work time agreements. At company level the involvement of employees is secured over an elected employee organization or work council. Moreover, if the company size exceeds a certain number of employees, workers are able to become members of the supervisory board of the company, This is regulated over codetermination. In addition, social partners are continuously working together on common positions, initiatives and action at the regional, national and European level.

Industrial democracy

The *Work Consultations Act* (Betriebsverfassungsgesetz) establishes how the workplace labor relations system is operated in Germany. The Act allows for the election of a working council that represents the employees in the enterprise. The working council has special rights on codetermination and participation on social, personnel and

economic issues. The working council also regulates the rights of consultation of individual employees and workplace councils, respectively, as well as the rights of trade unions at workplaces. The Act also establishes democratic conditions in the workplace. The *Work Consultations Act*, introduced in 1972, was reformed in 2001 by adapting to today's work conditions. This ensures the working councils higher effectiveness in reaching benefits for employees.²⁹

Codetermination

Via the elected representatives of the working council, employees in German enterprises have been granted the right to take part in the decision-making processes of enterprises for dealing with marketing plans, new products, capital investment, or rationalization measures. This codetermination also means that employees and trade unions are sharing a corporate responsibility for shaping and stabilizing the society.

In Germany codetermination in enterprises with more than 2,000 employees is regulated by the *Codetermination Act* (Mitbestimmungsgesetz) of 1976. Excluded are companies of the coal, iron and steel industries, which have their own regulations available. According to the *Codetermination Act*, the company's supervisory board must equally consist of employee and shareholder representatives. All representatives are elected. The size of the board varies with the size of the company. The supervisory board has the right to gather information on all of the company's business affairs.³⁰

In smaller companies (500 to 2,000 employees) the number of employee representatives is smaller. Representatives have to make up one-third of the members of the supervisory board (regulated by the *One-Third Regulation Act*). In companies of the coal, steel and iron industry the regulations count for enterprises with at least 1,000 employees. In addition to the abovementioned member allocation of the supervisory board, an additional neutral person must be a member of the board. The regulations for these industries are based on the *Coal, Iron and Steel Industry Codetermination Act* of 1951 and the *Supplementary Codetermination Act* of 1956. Moreover, several European regulations have been transmitted into German law adjusting codetermination for European companies.

CONTEXTUAL FOCUS: IMPROVEMENT OF EMPLOYMENT CHANCES FOR OLDER PEOPLE

Overview

The challenges of the aging demographic in Germany are already occurring in many areas, including an increase of the mean age of employees in the workplace. Many firms have chosen not to employ aged people anymore. Against this background, a fundamental reorientation towards improved employment perspectives for older people is necessary. This is one of the main goals of the Federal government in Germany and includes several initiatives and measures. *The Initiative 50plus* and the combined wage measure has been implemented recently in order to increase the employment chances of people aged 50 and older and to reintegrate older job-seekers into the labor market.

Initiative 50plus

The *Initiative 50plus*³¹ took effect May 1, 2007, and includes a number of measures to sustainably secure the employment chances of older people in Germany. The improvement of employment chances of older people plays an important part in securing social and economic well-being in old-age. Therefore, the initiative is oriented towards a steady improvement of the employment participation of older people, a better and sustainable integration of older unemployed, and a stronger involvement of people aged 50+ in further training measures. In order to reach these goals, several groups, including the social partners, employers, and the political system, are equally cooperating with each other.

Improvement of employment chances of older people

One recent legal regulations is the *Act on the Improvement of Employment Chances for Older People* (*Gesetz zur Verbesserung der Beschäftigungschancen Älterer*), which came into force as part of the *Initiative 50plus*. The Act provides the basis for a targeted promotion of older people through further training, and therefore sets a distinctive signal toward lifelong learning. The legislation for promoting further education of older workers was widened by the act: People aged 45 and older and employed in companies without applying short-time can now receive educational assistance in the form of vouchers. Older

employees can freely choose between educational offers and can receive a reimbursement for costs like transportation or child care. During the qualification the employer is obliged to continue the wage payment.

Older unemployed workers can make use of the *Combined Wage Measure for Older Workers* (*Kombilohn* or *Entgeltsicherung für ältere Arbeitnehmer/-innen*). The measure provides the basis to accept job offers with a low net salary by compensating the difference between the former salary and the accepted net salary through a temporary top-up benefit. Also, the contributions for the pension insurance are lowered by this compensation. The benefit duration is at maximum two years.

Employers can receive an *integration subsidy* (*Eingliederungszuschuss*) if they hire older unemployed or older people at risk of unemployment aged 50+. The subsidy is between 30 and 50% of the allowable net salary and is paid for a maximum of 36 months. After one year, the subsidy reduces annually by 10%. The benefits are a higher amount for (severely) disabled people. Employers have the legal basis to hire older people aged 52+ on a temporary basis without factual reasons for a maximum of five years. This is regulated over the *Part-time and Fixed-Term Contract Act* (*Teilzeit- und Befristungsgesetz*).

Regional projects

Further part of the *Initiative 50plus* is the federal program "*Perspective 50plus – Regional employment pacts for older people*" (*Beschäftigungspakte für Ältere in den Regionen*). The program is mainly focused on unemployed people aged 50+ in order to improve their employment prospects. The Federal Ministry of Labor and Social Affairs initiated it in 2005; the first period ran until 2007, the second will run from 2008 to the end of 2010.

The program promotes regional employment projects and pacts for reintegrating older long-term unemployed into the labor market. There are 62 pacts that exist in Germany. The important advantage is the regional focus, which allows a more targeted placement and integration by taking into account regional characteristics. In this context, the cooperation among many partners is important. Apart from the main responsible branch offices and local employment agencies, regional networks, companies, organizations and social partners are actively involved in the process.

IMPLICATIONS FOR QUALITY OF EMPLOYMENT:

Germany possesses a broad and stable welfare system. The combination of increased labor market flexibility and higher qualification demands, through various societal challenges have lead to a changed perception of employment and the work-place, as well as of the growing importance of quality of work in Germany. This development has lead to the introduction of a wide range of measures, and cooperative projects among various groups focusing on healthy, secure and flexible workplaces. This is reflected in a number of reforms over the recent years, the most important of which are the four *Acts on Modern Services on the Labor Market*. Minimum wage regulations for certain branches were introduced on the grounds of the *Posting of Workers Act* and the reform of employment protection, along with the regulation of temporary and fixed-term employment.

Various labor market measures in Germany are focused on sustainable employment and securing an acceptable standard of living for persons in need and for persons with special requirements. Moreover, there are reintegration measures to empower people to be self-responsible and self-empowered in order to overcome benefit dependency. This reflects the main goal of the Federal government in Germany to reach high levels of employment by integrating people into the labor market and by providing unemployed persons suitable and fulfilling job opportunities. This also indicates the need for tailored labor market policies in order to meet the demands of specific groups, such as young or older persons, low-skilled persons, people with migration backgrounds, people with disabilities and single parents. This orientation had positive effects on the labor market with increasing overall employment rates and decreasing unemployment levels over the past years.

The positive, recent developments in the labor market was overshadowed by the outcomes of the financial and economic crisis, which affected the German economy less severely compared to other industrialized countries. The crisis embattled the Federal government, however, they were able to encounter the crisis with concrete measures to cushion the negative effects for the labor market by improved regulations for taking-up short-term allowances combined with incentives for further training. There are indications of a gradual improvement after the crisis.

In Germany, the issue of improving the quality of work has become of strong interest among various groups such as politicians, unions, employers and the general public. Beside positive reactions to the implemented measures and initiatives, critical comments came from trade unions and employees' organizations as well as various stakeholders. These concerns centered on the relatively low effect of quality of employment measures with a focus on work/life balance. The national debate was widely embedded within discussions and developments at the EU level, in particular on the European Employment Strategy.

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ACKNOWLEDGEMENTS:

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The Sloan Center on Aging & Work is grateful for the continued support of the Alfred P. Sloan Foundation.

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