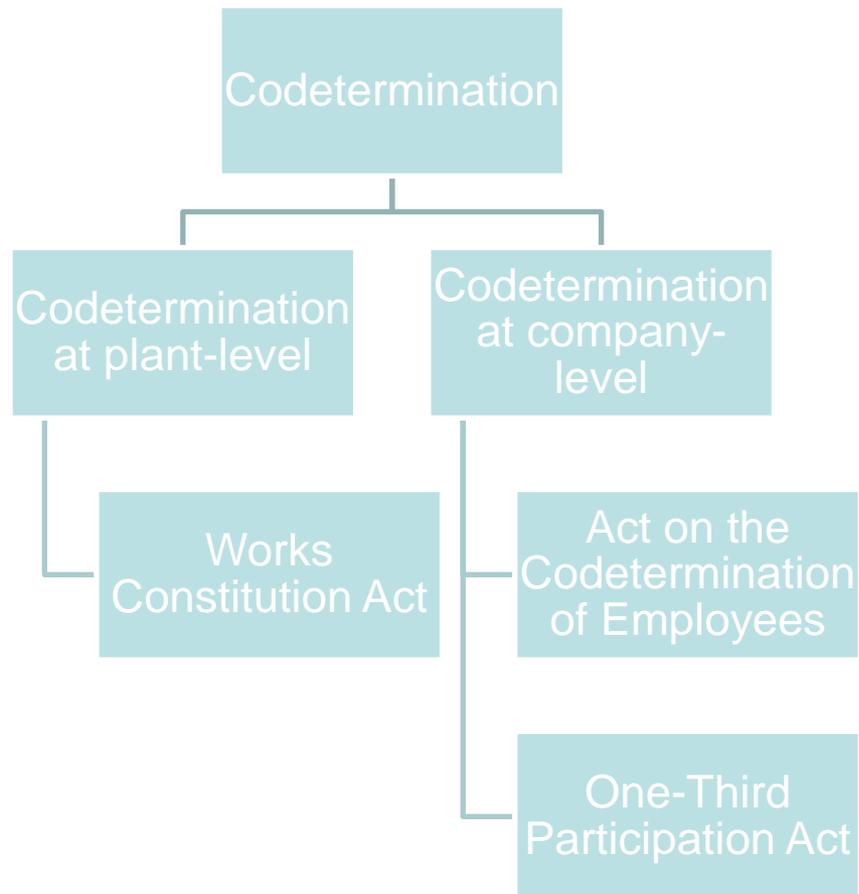


Codetermination in Germany

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Codetermination at company level

- Act on the Codetermination of employees
 - A Half of the members of the supervisory board are employee representatives
 - In case of a vote, the owners´ representatives have one vote more
 - Applies only on stock companies, a commercial partnership limited by shares, companies with limited liability and cooperative societies with more than 2000 employees
- One-third participation act
 - One-third of the members of the supervisory board are employee representatives
 - Applies in principle on the same form of companies as the act on the codetermination of employees but with a threshold of more than 500 employees

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Levels of implementation of works councils

Establishment
level

- Works council

Company level

- Central works council

Company group
according to § 18
Stock Company
Act

- Group works council

The works council at establishment level

- Number of members depends on the number of employees with the right to vote
 - General rule: odd number of members.

- Members of the works council hold office on an unpaid honorary basis
 - They receive no special remuneration for their activities but receive their usual payment as employees.

- Members must be released from work to fulfill their obligations without loss of payment if and in this extend this is necessary to perform their duties.

- Employer must provide members with the proper materials and bear its costs.

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The works council at establishment level

- If the number of employees is over a threshold line of 200 employees, a certain number of members are to be released from work completely
 - in the case of 200 to 500 employees one member, from 501 to 900 employees two members, etc.

- Members of the works council are specially protected against dismissal.

Cooperation of employer and works council – basic principle

§ 2 Works Constitution Act

„(1) The employer and the works council shall work together in a spirit of mutual trust for the good of the employees and the establishment,“

Codetermination at plant-level – the works council

- Election of a works council at the establishment level only, if
 - The establishment does normally employ five or more employees that have the right to vote and of which at least three are electable.

- No legal obligation to establish a works council.

Codetermination at plant-level – the works council

- The works council has
 - Rights to get informed by the employer, e.g. in case of individual personnel measures, § 99 Works Constitution Act
 - Rights to be heard and rights of proposal, e.g. prior to any dismissal, § 102 Works Constitution Act
 - Consultation rights, e.g. change of operations, § 111 Works Constitution Act
 - Codetermination act, especially social matters, e.g. § 87 Works Constitution Act (strongest form of participation).

Codetermination in social matters

- Especially codetermination rights according to § 87 Works Constitution Act.

- Right of codetermination, e.g. in the case of
 - Matters concerning the organisation of the establishment and the conduct of employees in the establishment (Sect.1, No.1)
 - The start and end of daily working hours, including breaks, and the distribution of hours over the individual days of the week (Sect. 1, No. 2)
 - Temporary reduction or extension of normal working hours within the establishment (Sect. 1 No. 3)
 - The time, place and form of salary payments (Sect. 1, No.4).

Codetermination in social matters

- Right of codetermination, e.g. in the case of
 - The introduction and use of technical equipment designed to monitor the conduct or performance of the employees (Sect. 1, No. 6)
 - Stipulation of job and bonus rates and comparable performance-related payments, including money coefficients.

- If the employer does not let the works council codetermine when taking measures concerning these points, the measure is void.

Propositions to reform the Works Constitution Act

- The Pro rata temporis-principle should also be established in connection with the threshold lines of the Works Constitution Act.

- A quota for the establishment of a works council should be established
 - At least one third of the employees of a establishment should ask for the establishment of a works council.
 - No works council should be established against the majority of the employees of an establishment, espacially if there are alternative structures for cooperation between employees and employer other than a works council.

- The employer should be able to take immediate temporary measures without the works council in

Propositions to reform the Works Constitution Act

- The employer should be able to take immediate temporary measures without the works council
 - In certain cases especially in case of emergency.
 - If the works council does not act at all in a certain period of time, e.g. a month.

- The threshold lines of the Works Constitution Act should be raised.

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