



Naložba v vašo prihodnost

OPERACIJO DELNO FINANCIRA EVROPSKA UNIJA
Evropski socialni sklad



Collective bargaining in a European perspective – Lessons from the German model?

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Overview

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- **Lessons from the German model?**



BDA

Confederation of German Employers' Associations –

BDA

- Umbrella organisation for German employers' associations
- Members from 51 sectoral associations: industry, trade, craft, banks, insurance, etc.
- 14 cross-sectoral regional associations
- BDA represents the interests of 1 million companies which employ 20 million workers

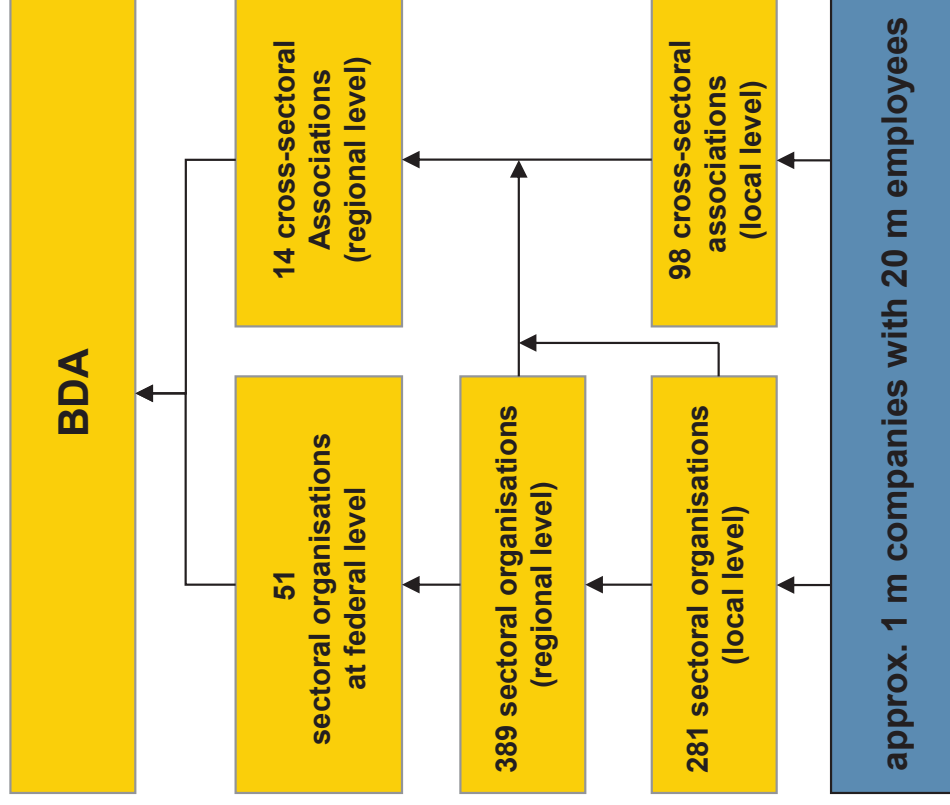


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BDA



- **Federal structure**
- **Voluntary membership**
- **Associations are legally and financially independent**
- **All sectors are covered, exemptions:**
 - **Public sector**
 - **Liberal professions (lawyers, architects)**
- **Contribution-based system**

Collective Bargaining in Germany – Legal basis

- Art. 9 sec. 3 German Constitution:
“The right to form associations to safeguard and improve working and economic conditions shall be guaranteed to every individual and to every occupation or profession. ...

Agreements that restrict or seek to impair this rights shall be null and void; measures directed to this end shall be unlawful.”



Collective Bargaining system in Germany – Legal basis

- 3 principles:
- **Freedom to form a coalition:** Everyone can form an association. Associations are set up on a voluntary basis
- **Freedom to join a coalition:** No one can force an employee in a trade union or an enterprise in an employers' association
- **Free Collective Bargaining:** Employers and trade unions negotiate salaries and working conditions independent of the government and establish them in collective agreements



The role of the state

- The state negotiates Collective Agreements, if it is the employer (e.g. public service sector)
- The state sets minimum working condition (e.g. minimum holiday, working time regulations), which are minimum standards for Collective Agreements. However, the employer can go below the standard of the regulations through Collective Agreement when the law expressly allows it (legal opening clause)
- The state can declare a Collective Agreements as generally binding (506 Collective Agreements are generally binding, October 2013)



Collective Agreements

Importance of Collective Agreements (CA):

- More than 68,000 valid Collective Agreements (sectoral collective agreements and company agreements, e.g. Volkswagen, Deutsche Telekom) for more than 300 different branches
- Every year approx. 6,000 new Collective Agreements are concluded
- Regional negotiations dominate
- Collective bargaining coverage: 80 % of employees work for companies applying a Collective Agreement (60 % direct, 20 indirect, 2012)



Types of Collective Agreements

- **Framework agreements** (general working conditions like working time, holiday, overtime hours)
approx. 35,000 (2008)
- **Wage and salary agreements** (regulate the wage/salary, incentive payments, bonus payments)
approx. 9,000
- **Special collective agreements** (e.g. agreements to protect workers against rationalisation)
approx. 26,000



Collective Agreements parties

- **Trade unions, employers' associations and individual employers** are possible collective agreement parties
- **Industrial association's principle:** All employees in a branch of industry are joined together in a trade union, independent of their concrete job
- Employers' associations are based on the industrial association principle as well
- **Trade Union density:** Out of about 40 million employees, 7.7 are organised in trade unions. The large majority are members of the 8 industrial trade unions forming the German Confederation of Trade Unions (6.2 million members)



Peace obligation and industrial action

- **Peace obligation:** while a collective agreement is in force unions are not allowed to organise strikes (ban on industrial action)
- **Strikes:** are only allowed in the context of collective bargaining (political or general strikes are unlawful)
- **Joint dispute resolution agreements:** employer organisations and trade unions have in many sectors agreed on certain mechanisms to resolve conflicts, e.g. when collective bargaining rounds fail to produce results



Recent developments

- At the beginning of this century, Germany was considered to be the “sick man of Europe”
- Comprehensive labour market reforms – the so-called “**Agenda 2010**” – in the years 2003 to 2005: made the labour market more flexible; core unemployment fell for the first time from 4.4 to under 3 million today (September 2013 = 2.8 m) – “**German job miracle**”
- The ambitious structural reforms stimulate economic as well as social development alike and enabled Germany to regain global competitiveness
- A lesson learned from our recent German experience could be, that reforms need time to show their effects



Recent developments: Membership without binding commitment

New membership status („OT-Status“)

- Membership without a binding commitment to the relevant sector's collective agreements
- Companies can make their own rules but can remain members of the employers association



Recent developments – Flexibility

Flexibility

- **Opening clauses in CAs:**

Social partners introduced opening clauses in sectoral CAs making company-level solutions possible (e.g. flexible working conditions especially with regard to working time and remuneration components)
Consequently, the number of dismissals for operational reasons could be reduced as much as possible.

- **Opening clauses in national law:**

Social partners use legal opening clauses (e.g. for temporary agency work)



Recent developments – responses to the crisis

Short-time work/allowances:

- An important measure undertaken during the crisis was the use of **short-time work (“Kurzarbeit”)**; **jointly with the trade unions** it was agreed that the short-time work allowances were granted in a more flexible way (with government support), enabling companies to maintain their core staff to a significant degree during the crisis
- On average in 2009 about 1.1 million employees received short-time work allowances
- In addition: Monetary and fiscal stimulus policies from the government



Recent developments – responses to the crisis

Collective Bargaining in the light of the crisis:

- Longer runtime (24 months)
- Moderate wage increase (and often several months without any pay increase)
- Opening clauses in sectoral agreements (e.g. for lump-sum-payments)
- Protection against dismissals



Recent developments – responses to the crisis

- Social partners in various sectors put forward many constructive solutions for dealing with the crisis: CAs focused on measures to ensure employment and to avoid burdensome implications for enterprises
- Background: In Germany, the social dialogue is well-established and industrial relations institutions are strong due to a climate of mutual trust and understanding
- Working time accounts (“Arbeitszeitkonten”), i.e. the registered number of additional working hours performed before, were reduced in order to avoid dismissals



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Lessons from the German model?

- There is no „one-size-fits-all“
- Structural labour market reforms and flexible forms of employment
- Building trust between social partners is crucial
- Flexible Sectoral Collective Agreements (opening clauses) and a moderate wage policy

Thank you for your attention!



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