

## Labour/employment law data for Germany

<b>1.</b>	<b>Is it a legal requirement that employees must receive an employment contract?</b>	A contract is not necessary, but the main terms of employment should be provided in writing including the names of the parties, the type of work to be performed, remuneration, working hours/vacation time, notice periods and any references to a collective bargaining agreement. It must be provided to the employee one month after the start date.
<b>2.</b>	<b>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</b>	Justifiable reasons: personal; performance and operational or economic reasons. Instant dismissal possible for gross misconduct. (Protection is for employees who have worked for more than 6 months in companies of more than 10 full time employees).
<b>3.</b>	<b>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</b>	Different procedures for the situations above. Generally important to provide warnings and have complete documentation and consult with the works council (where appropriate). Often litigation commenced regarding the effectiveness of the termination, with the intent of receiving severance pay, although severance pay compensation is unusual - usually reinstatement.
<b>4.</b>	<b>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</b>	If the dismissal is unjustified, the termination is void and the relationship continues. However, in practice employer and employee often agree that the termination was valid and the employee receives a negotiated severance payment. If a labour court rules that the dismissal has not been justified, it will reinstate the employee. If this is generally disagreeable, the court may award compensation. Compensation depends on the circumstances of each case (e.g. length of service, age, marital status, etc.) but not more than 18 months salary. The average calculation is ½ the gross monthly salary for each year of service.
<b>5.</b>	<b>Do employees have the right to be members of a trade union?</b>	Yes
<b>6.</b>	<b>Is there any legal requirement for an employer to contribute to a pension for employees?</b>	Yes, under public pension insurance schemes (part of the state controlled social security system) - ½ paid by the employee; the other ½ by the employer. May be additional employer contribution within collective bargaining agreement.
<b>7.</b>	<b>What are standard maternity rights? What are parental leave rights (including paternity leave)?</b>	General rights not to work if this would endanger the foetus and not to be dismissed by reason of redundancy. Paid maternity leave commences 6 weeks prior to the anticipated

		<p>birth and 8 weeks after.</p> <p>Both mother and father are entitled to parental leave during the first three years of the child's life - payment from public funding until 14 months from minimum 300 Euro per month to a maximum of 1.800 Euro per month.</p>
<b>8.</b>	<b>When are employees eligible for redundancy payments?</b>	<p>By law, the termination of employment generally does not lead to a statutory redundancy payment. The law says that either termination is lawful and the employment ended, or it is void and the employment continues (see 2 and 4 above). Works councils 'social plans' normally provide for financial compensation in case of redundancies - also required in insolvency situations.</p>
<b>9.</b>	<b>What are the statutory redundancy payment limits?</b>	<p>No statutory limits for the 'social plan'. In insolvency situations - limited to 2½ gross monthly salary of the employee, in total up to 1/3 of the insolvent company's capital.</p>
<b>10.</b>	<b>Can existing employees be dismissed if you buy a business with employees?</b>	<p>No, not because of the transfer, but termination is possible if within the justifiable reasons stated in (2) above.</p>
<b>11.</b>	<b>Any other general legislation?</b>	<p>Regulations based on collective bargaining agreements; discrimination, working hours; fixed term contracts must be for a valid reason; disability discrimination; health and safety; social security laws; data protection; appointment of a qualified company doctor (for the benefit of employees).</p>