

Employers seminar on collective bargaining & competitiveness

Renate Hornung-Draus

Managing Director

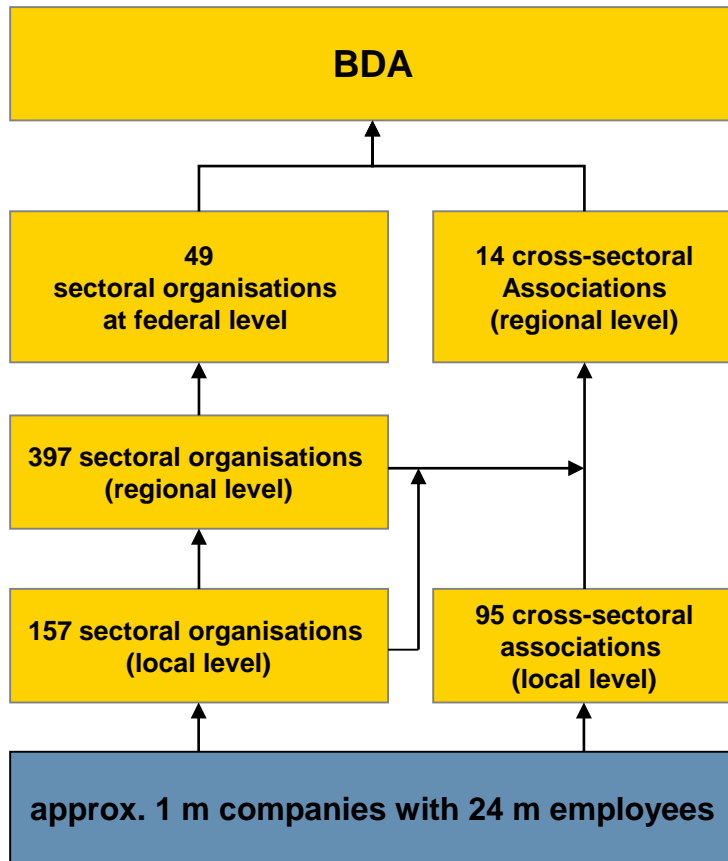
Confederation of German Employers (BDA)

Rome, 18 September 2018

Confederation of German Employers – BDA

- Umbrella organisation of German employers' associations
- Members from 49 sectoral associations:
industry, trade, craft, banks, insurance, etc.
- 14 cross-sectoral regional associations
- BDA represents the interests of ca. 1 million companies which employ 24 million workers

Confederation of German Employers – BDA



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

Diversity of European models

The systems of industrial relations differ significantly across the EU:

- Scandinavian model, UK-model, Central-Western model, Central-Eastern model, Southern model
- **70 EU-Directives and –regulations** set a minimum-standard:
 - Working Time Directive
 - European Work Council Directive
 - Occupational Health and Safety (OSH) Directives
- Art. 153 Sec. 5 TFEU: The provisions of this Article shall not apply to **pay**, the **right of association**, the right to **strike** or the right to impose **lock-outs**.

Collective Bargaining system in Germany – Legal basis

Art. 9 sec. 3 German Constitution – legal 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 to join a trade union or an enterprise to join an employers' association (no “closed-shop” system)
- **Free Collective Bargaining:** Employers and trade unions negotiate salaries and working conditions independent of the government and establish them in collective agreements (bipartite system)

Collective Agreements

Importance of Collective Agreements (CA):

- **73,000 valid Collective Agreements** for more than 300 different branches:
 - **Sectoral Collective Agreements** and
 - **Company Agreements**, e.g. for Volkswagen, Deutsche Telekom

- Every year approx. **6,000** new CA are concluded
- Every workday **30** new CA

Collective Agreements

Collective Bargaining coverage:

- **78 %** of employees work for companies applying a Collective Agreement directly or indirectly:
 - 55 % direct, 23 % indirect (IAB, 2017)

- **22 %** of employees are not covered by any Collective Agreement

Collective Agreements

Collective Bargaining coverage:

Extension mechanism:

- The state can declare a Collective Agreement as **generally binding** on national and regional level
- In 2017 “only” 443 Collective Agreements are generally binding → **less than 1%**

Collective Agreements parties

Trade Union density:

- **17 %:** Out of about 44 million employees, 7.5 are organised in trade unions.
- The large majority are members of the 8 industrial trade unions forming the German Confederation of Trade Unions (6.0 million members)
- “Niche Unions“ for specific occupations (train drivers, pilots, doctors) → Act on Collective Bargaining Agreement Unity (adopted July 2015)

Collective Agreements parties

Act on Collective Bargaining Agreement Unity (adopted July 2015):

- Background: 2010 Federal Labour Court ruling, which put an end to the principle of Unitarian Bargaining (Tarifeinheit), a tradition that had existed for over 60 years. These rulings gave more rights to small unions to contest the established system,
- Employers feared that companies would face permanent turmoil, because individual collective bargaining agreements could constantly be contested (end of peace obligation).

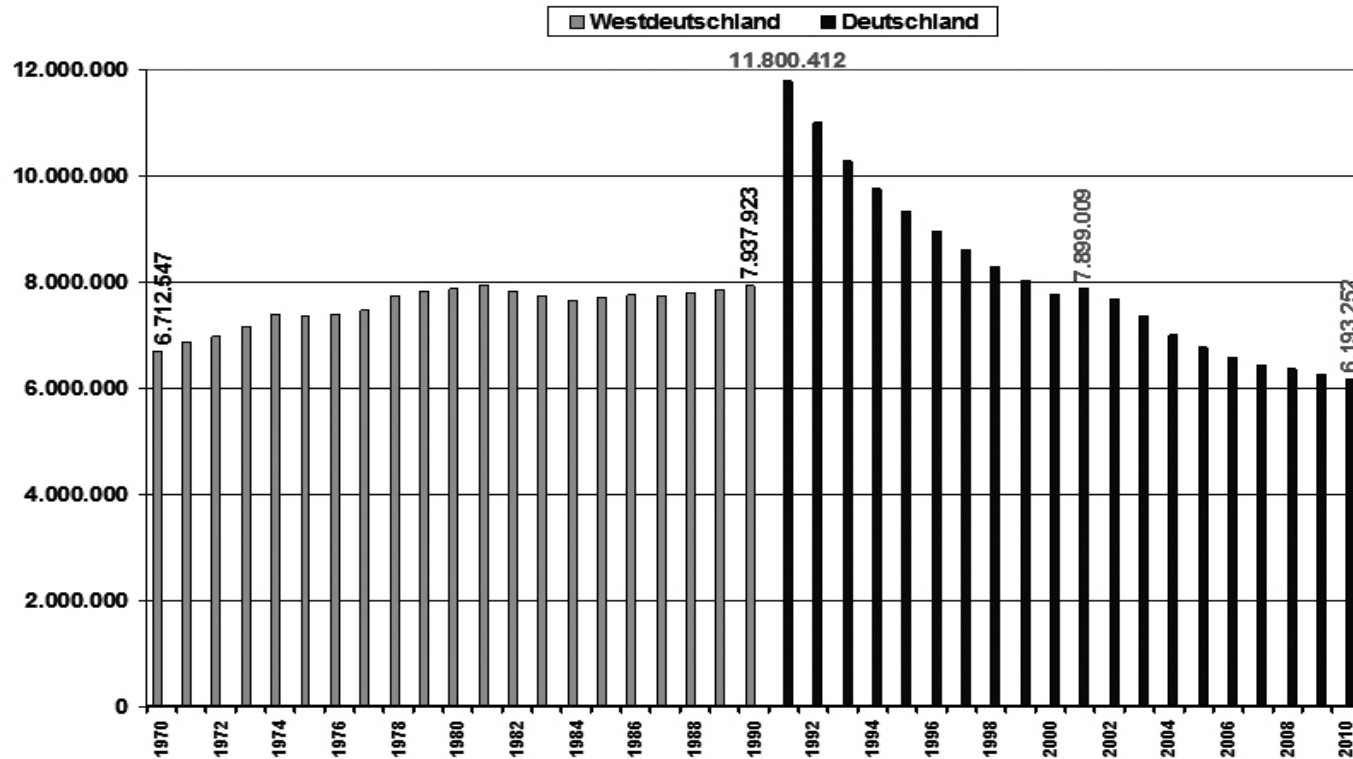
Collective Agreements parties

Act on Collective Bargaining Agreement Unity (adopted July 2015):

- The coalition government initiated a new Act that came into force as of 10 July 2015.
- The Act states that if two non-identical collective agreements from different unions in the same establishment conflict, the collective agreement of the trade union with the largest membership in the establishment will apply.
- In September 2017 Germany's federal constitutional court ruled that the law is in principle compatible with the constitution.

Collective Agreements parties

Trade Union density:



Peace obligation and industrial action

Strikes:

- are only allowed in the context of collective bargaining
- political or general strikes are unlawful
- employees do not have an individual right to strike, only trade unions can call and organise strikes

Peace obligation:

- while a collective agreement is in force unions are not allowed to organise strikes (ban on industrial action)

Employee representation

The system of employee involvement in Germany (information, consultation and co-determination) takes place at **two** levels:

- Involvement of employees at **plant** level
- Involvement of employees at **company** level

Employee representation

Plant level:

- Work councils **can** be set up in a plant **with at least 5 employees**
- Work councils have a number of rights: information, consultation and co-determination
- Trade unions have no legal influence on the composition of the works council

Employee representation

Company level:

- Employee involvement at company level is particularly regulated by the **Codetermination Act**
- The Act entailed a **representation** of employees on the **supervisory board**
- **Main functions of the supervisory board:**
 - **General monitoring of the management** of the company which is the sole responsibility of the management board;
 - **appointment and dismissal** of members of the management board.

Employee representation

Company level:

- Companies with more than 500 employees:
One-third representation of employees in the **supervisory board**
- Companies with more than 2,000 employees:
50 % representation of employees in the **supervisory board**
(if voting in the supervisory board results in a tie, the vote of the chairman is decisive)

Social Partnership

The concept of “Social Partnership“:

- In Germany, the social dialogue is well-established and industrial relations institutions are strong due to a **climate of mutual trust and understanding**
- “Social Partnership” is seen as one reason for our economic strength

Thank you, I am looking forward to your questions!

BDA | Bundesvereinigung der
Deutschen Arbeitgeberverbände

Member of BUSINESSEUROPE

address:

Haus der Deutschen Wirtschaft
Breite Straße 29, 10178 Berlin

mailing address:

11054 Berlin

T +49 30 2033-0

F +49 30 2033-2105

bda@arbeitgeber.de
www.arbeitgeber.de