

# ► Background note: Labour relations and COVID-19

October 2020<sup>1</sup>

## Negotiating COVID-19 related collective agreements in the German metal and electrical industry

### ► Industrial relations in Germany

Germany has ratified the [ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 \(No. 87\)](#) and the [Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#), in 1957 and 1956, respectively.

Industrial relations in Germany are characterized by dual channels of representation. Trade unions negotiate collective agreements with employers or employers' organizations, while works councils represent workers and co-operate with employers on operational issues at plant level. The basic legal instrument for collective bargaining is the Collective Bargaining Act (Tarifvertragsgesetz) of 1949 (modified in 1972). The key points of the legislation are:

- Only trade unions and employers or employers' associations can conclude a collective agreement.
- The agreed standards are binding on union members and members of employers' organisations.
- The social partners have certain obligations, such as refraining from industrial action while the agreement is in force and enforcing the agreement by informing their members of it.

- The agreed standards cannot be undercut but only improved upon at plant level ("favourability principle"); however, the negotiating parties to a sectoral agreement may envisage opening clauses, for specific reasons (for example, in case of serious economic difficulties) and often setting parameters for their use.

Under the Works Constitution Act (Betriebsverfassungsgesetz) of 1952 (modified in 1972 and 2020), works councils can be established in all workplaces with at least five employees. According to the Works Constitution Act, "the employer and the works council shall work together in a spirit of mutual trust having regard to the applicable collective agreements and in co-operation with the trade unions and employers' associations represented in the establishment for the good of the employees and of the establishment" (Section 2) and "[i]ndustrial action between the employer and the works council shall be unlawful; the foregoing shall not apply to industrial action between collective bargaining parties" (Section 74). The Act also stipulates that one important task of works councils is to monitor the company's compliance with labour laws and collective agreements (Section 80). As a consequence, the employer has to provide all the necessary information on the issues regulated in collective agreements.

<sup>1</sup> This note was compiled in May 2020. Additional details can be accessible through the sources cited below.

## ► COVID-19 related collective agreements

Due to the social and economic impact of COVID-19, the collective bargaining round of the metal and electrical sector was suspended with a view to regulating the impact of the crisis for workers and companies. Therefore, the collective wage agreement that was terminated as of 31 March 2020 was reintroduced without wage increases with a minimum term until 31 December 2020.

COVID-19 related collective agreements were concluded in North Rhine-Westphalia on 20 March 2020 between the [IG Metall](#) North Rhine-Westphalia (metal workers' union) and METALL NRW, the regional member association of [Gesamtmittel](#) (employers' organization in the metal working sector). In the meantime, the North Rhine-Westphalian pilot agreement was adopted by the bargaining partners in the metal and electrical industries throughout Germany and cover the majority of workers in the sector.

Two [collective agreements](#) were signed: (1) The "Future in Work" collective agreement which had been originally developed during the 2008 global economic crisis was signed so that it entered into force again. (2) The "Solidarity Agreement 2020" complements and updates the "Future in Work" agreement. The two agreements include the following points:

- Those companies that introduced short-time working (work sharing) secure the net remuneration of employees at the level of around 80 percent. The public employment office (Bundesagentur für Arbeit) covers 60 percent of the salary (67 percent for workers with children). The additional payments will be achieved by cutting back special payments and an employer's allowance of 350 euros per full-time employee. Workers who are on short-time cannot be terminated.
- Management and works council at plant level can decide to introduce six or eight<sup>2</sup> compulsory paid days off for certain employees in lieu of a special payment foreseen in the collective agreement.
- During school and childcare closures which are related to the pandemic, five additional days of leave are granted to employees who have care responsibility for children up to the age of 12, on the condition that they have used all other available measures (e.g using accrued leave from 2019, accrued working time account). The collective agreements entered into force on 19 March 2020 and can be terminated as of 31 December 2020 (with a one-month notice period).

## ► Key effects of the agreements

The collective agreements protect employment and income and allow workers with family responsibilities to take special time off to care for children. The agreements balance concessions from employees with job security measures. For companies they enable reliable planning and mitigate the financial impact of the crisis. Whilst the causes,

impact and longer-term consequences of this public health crisis differ significantly from the 2008 financial and economic crisis, the social partners were able to draw on the experiences of, and lessons learned from the latter in shaping their responses to COVID-19.

## ► Access to further information:

- Tarifvertrag Zukunft in Arbeit 2020 (TV ZiA 2020), 19 March 2020.
- Sondertarifvertrag 2020 (SolidarTV 2020) für die Metall- und Elektroindustrie Nordrhein-Westfalen, 19 March 2020.
- [Information by the IG Metall on the concluded collective agreements.](#)
- [Information by Gesamtmetall on COVID-19 measures.](#)

<sup>2</sup> The number of days is dependent on specific categories of workers (such as tenure and type of contract).

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