

Changes to German employment law in 2022

Recent changes to German employment law – as well as the election of a new government – will require employers to take action to ensure that they are compliant with the new legislation in 2022.

Higher minimum wage

As of January 1, 2022, the statutory minimum wage has increased to EUR 9.82 gross per working hour. From July 2022, this will increase further to EUR 10.45 gross per working hour. In addition, the newly elected government has also announced that there will be an additional increase to EUR 12.00 in the future. The date that this becomes effective is currently unknown.

Implementation of the whistleblower directive

The Federal Republic of Germany intended for the European Directive 2019/1937/EU on the protection of whistleblowers to be implemented by no later than December 2021, but this has not yet been done. It is expected that the newly elected government will implement this directive soon (maybe as early as within the first six months of 2022) and their coalition agreement refers to a planned “legally secure and practicable” implementation of the directive into German law. The coalition agreement also gives a hint that the scope of application is broader than the EU directive and might also apply to violations against national law (and not only EU law).

Special regulations for short-time allowance extended

The intended temporary special regulations for short-time allowances due to the Covid 19 pandemic have been extended to March 31, 2022. The main effects are that:

- the maximum period of entitlement to short-time allowance of up to 24 months has been extended for a further three months;
- employers can seek reimbursement of 50 percent of the social security contributions they have paid for individuals during short-time work.

In addition, entitlement to the increased short-time allowances has been extended as follows:

- from the fourth month, 70 percent of the net pay difference (or 77 percent if a child lives in the household);
- from the seventh month, 80 percent (or 87 percent if a child lives in the household).

Tax free Covid-bonus until March 31, 2022

Employers may still grant their employees a total of EUR 1.500 as a so called **“Corona-Bonus”** until March 31, 2022, inclusive. This bonus is tax free. It is important to note that the total amount of EUR 1.500 may not be exceeded (irrespective of whether some part of it may have already been paid in the previous months/years or not).

Digital sick notes (eAU)

Since October 2021, doctors have been obliged to provide digital sick notes (so called **eAU**) to relevant health

insurance providers. From July 1, 2022, employers will receive digital sickness notifications from the health insurance provider, too. This means that employers are able to access electronic sick notes independently. Nonetheless, employees are still obliged to inform their employer about their incapacity to work.

Digital works council work also 2022

In December, the special regulations for holding virtual work meetings and meetings of managerial employees, as well as for holding meetings of the conciliation committee, were reintroduced. The regulations are limited until March 19, 2022, but can be extended by resolution of the German *Bundestag* once.

Thresholds for social security

In recent years, the thresholds have risen steadily. For 2022, they remain relatively unchanged and have even reduced slightly in some instances due to the recent changes to wages. As a result, the income threshold for contributions to the general pension insurance scheme in western Germany, for example, will fall from EUR 7,100/month (2021) to EUR 7,050/month (2022). In the east, it will rise to EUR 6,750/month (2021: EUR 6,700/month).

Changes due to the German Participation Strengthening Act (*Teilhabestärkungsgesetz*)

In 2021, the *Bundesrat* gave its approval to the German Participation Strengthening Act (*Teilhabestärkungsgesetz*), which brings changes from January 2022 onwards. The main effect of the legislation is that the budget for the regular training of people with disabilities will be increased. Furthermore, the legislation also provides for the introduction of a contact point for employers. This will require employers to provide details on the training, recruitment and employment of severely disabled people.

Further development of the status determination procedure (*Statusfeststellungsverfahren*)

The status determination procedure is used to determine the status of persons as dependent employees or self-employed persons. This is now being developed further through the following reform modules:

The introduction of a prognostic decision makes it possible to determine the employment status of an individual before they start working, which is earlier than previously possible. In the future, the employment status will be determined instead of the insurance obligation. This simplifies and accelerates the process. A group determination is possible in instances where there are identical contractual relationships. In the case of identical contracts, there is no longer a requirement for separate status determination procedures.

The new regulations will come into force on April 1, 2022. For testing purposes, key elements of the reform will apply for a limited period until June 30, 2027.

New obligations regarding Mini-jobbers

In addition to their tax number, employers must in future also provide the tax identification numbers of their mini-jobbers to the competent authority (*Minijob-Zentrale*) using the electronic reporting procedure.

In the case of so-called short-term mini-jobs or short-term employment (mini-jobbers who do not work for more than three months or a total of 70 working days in the course of a calendar year, whereby the remuneration is irrelevant), information on the mini-jobber's health insurance coverage must also be provided in the social security notification as of January 1, 2022.

In the future, when registering short-term mini-jobbers, the *Minijob-Zentrale* will immediately provide the employer with feedback as to whether further short-term employment of the mini-jobbers currently exists or has existed in the current calendar year.

Home-Office allowance for personal income tax

For the tax years 2020 and 2021, a so-called home office allowance for employees in the amount of EUR 5.00 per day (max. EUR 600.00/120 days per year) was introduced. This is currently only valid for the years 2020 and 2021. The new government has announced that this regulation will be extended until December 31, 2022.

New government brings changes

The new government is planning to make changes to various areas of employment law. This includes fixed-term contracts, upper limits for mini- and midi-jobbers (EUR 520 per month for mini-jobbers and EUR 1,600 for midi-jobbers), as well as strengthening co-determination in company and enterprises. Changes are also expected to mobile working in general and two weeks paid leave for fathers after the birth of a child is expected to be introduced in the near future, too. Further innovations and decisions are anticipated, and we will of course monitor any developments.

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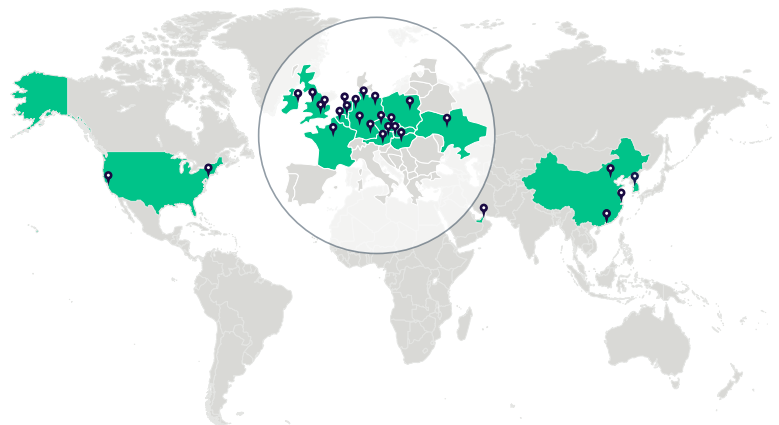


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