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Germany

Doing Business In

Contributor

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This country-specific Q&A provides an overview of doing business in laws and regulations applicable in Germany.

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Germany: Doing Business In

1. Is the system of law in your jurisdiction based on civil law, common law or something else?

The legal system of the Federal Republic of Germany is rooted in the civil law tradition, tracing its origins to Roman law, and is characterised by extensive codification. Key sources of law include the German Constitution (*Grundgesetz*), legislation enacted by the Federal Parliament (*Bundestag)* and the parliament of the individual Federal states (*Bundesländer)*, and directly applicable and implemented European Union law. Court decisions are not a formal source of law in the sense of binding precedent; however, lower courts frequently align their reasoning with decisions of higher courts, especially the federal courts, even though they are not legally bound by such decisions. Decisions of the Federal Constitutional Court have binding effect to the extent provided by law.

2. What are the different types of vehicle / legal forms through which people carry on business in your jurisdiction?

There are various types of business structures, including but not limited to:

- Sole Proprietorship Businesses (*Einzelkaufmännisches Unternehmen*), which is an unincorporated business owned by a single natural person (entrepreneur) and operated in his or her name or under a trade name. It is not a separate legal entity distinct from its owner; rights and obligations are held by the entrepreneur;
- Partnerships (*Personengesellschaften*) in the form of unregistered Civil Law Partnerships or – since 1 January 2024 – in the form of a Registered Civil Law Partnership (*eingetragene Gesellschaft bürgerlichen Rechts* or *eGbR*), General Partnerships (*Offene Handelsgesellschaft* or *OHG*) and Limited Partnerships (*Kommanditgesellschaft* or *KG*, mostly structured as a *GmbH & Co. KG* with a GmbH acting as sole general partner). All Partnerships hold in common that they need two or more natural or legal persons as partners/shareholders and that all Partnerships have the capacity to hold assets and to assume liabilities. During recent years, the differences between the different types of Partnerships have constantly been reduced, however, some differences in detail remain. In particular, the KG differs from the other types of Partnerships by the fact that a KG has a least one general partner with unlimited liability as well as limited partner(s); by contrast, in other types of Partnerships, all partners have unlimited liability at all times;
- Corporations (*Kapitalgesellschaften*), primarily in the form of the Limited Liability Company (*Gesellschaft mit beschränkter Haftung* or *GmbH*) and its "little sister", the Entrepreneur Company with limited liability (*Unternehmergesellschaft (haftungsbeschränkt)* or *UG (haftungsbeschränkt)*), Stock Corporation (*Aktiengesellschaft* or *AG*), Partnership Limited by Shares (*Kommanditgesellschaft auf Aktien* or *KGaA*) and the European Stock Corporation (*Societas Europaea* or *SE*).

3. Can non-domestic entities carry on business directly in your jurisdiction, i.e., without having to incorporate or register an entity?

Non-domestic companies may generally conduct business in Germany without incorporating a German entity. Depending on the nature of the activities and the level of physical presence, trade, tax and social security registration and reporting obligations may apply and, in particular cases, registration of a branch with the commercial register may be required.

Germany follows the rule of "seat" and where the seat of an entity is located is determinative for its location of formation. However, within the EU/EEA, the freedom of establishment requires Germany to recognise companies duly incorporated in another EU/EEA Member State even if their central administration is in Germany. For non-EU/EEA entities, and in particular where the central administration is moved to Germany, careful structuring is required. Depending on the circumstances, there can be a risk that the entity is not recognised in its foreign corporate form for German-law purposes, which may result in treatment akin to a partnership and may entail personal liability exposure for the persons involved.

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4. Are there any capital requirements to consider when establishing different entity types?

Yes, there are capital requirements for some legal forms. The minimum share capital for a German GmbH amounts to EUR 25,000 (unless the company is formed as an Entrepreneur Company with limited liability (*UG (haftungsbeschränkt),* for which the minimum share capital is EUR 1, but to which statutory reserve requirements apply until the capital reaches EUR 25,000); the minimum share capital for a German AG is EUR 50,000; and the minimum statutory share capital of an SE amounts to EUR 120,000.

5. How are the different types of vehicle established in your jurisdiction? And which is the most common entity / branch for investors to utilise?

A sole trader or Sole Proprietorship Businesses (*Einzelkaufmännisches Unternehmen*) would generally begin to carry on business without any formal set-up, pre-registrations or permits being required. It would be required to notify the trade register and comply with several other notification/registration obligations depending on the size, quality and nature of the business.

A Partnership requires the partners to agree on the Partnership's Articles of Association (which do not have to be recorded in writing, but often are for tax and other purposes, in order to reflect the peculiarities of the business operations and the relationship amongst the partners). The partners apply for the registration of the Partnership in the respective register (either commercial register (*Handelsregister*) for OHG or KG, or Partnership Register (*Gesellschaftsregister*) for the Registered Civil Law Company/*eGbR*).

The German law regulations applicable to Partnerships have been changed with effect as of 1 January 2024, by means of the Act on the Modernization of German Partnership Laws (*Gesetz zur Modernisierung des Personengesellschaftsrechts (PersonengesellschaftsrechtsmodernisierungsG – MoPeG*)), which brought about changes to more than a hundred other Acts. With the changes, there is a possibility, and may be an obligation, for a Civil Law Partnership to register with the *Gesellschaftsregister*; registration may be required in practice in certain constellations (e.g., in connection with certain real estate or shareholding registrations) but – pursuant to the Corporate Income Tax Modernization Act (*Körperschaftsteuermodernisierungsgesetz* (*KöMoG*)) – also a possibility to apply for tax treatment as if the partnership were a corporation.

The formation of corporations, whether in the form of a UG (*haftungsbeschränkt*), GmbH, AG, KGaA or SE, requires the execution of a formation deed, agreement on the Statutes, other formal steps as well as registration with the commercial register. Further details cannot be described here.

Certain activities are subject to public permits, for example matters subject to financial regulation (banking and insurance business), pharmaceutical business, and many others. For certain activities, the number of eligible legal forms is limited.

The most prevalent entities would include Limited Partnerships, in particular, in the form of GmbH & Co. KGs with a GmbH acting as sole general partner (in particular, in privately held SME (*Mittelstand*) cases and cases involving real estate), GmbHs (which would also largely be considered to be the best form for German subsidiaries of international groups) and AGs. The number of SEs has increased substantially; whilst the number of KGaAs in Germany has constantly remained low during the last couple of years.

6. How is the entity operated and managed, i.e., directors, officers or others? And how do they make decisions?

Operations, management and general corporate governance largely depend on the type / legal form of the respective entity.

KGs are generally managed by their general partners, who can be subjected to approval by the shareholders (meeting). In cases of GmbH & Co. KGs, it is the GmbH, represented by its Managing Directors (*Geschäftsführer*) who manages the KG's business.

As a general rule, German GmbHs come with two corporate bodies, namely the Managing Directors (*Geschäftsführer*) on the one hand and the shareholders (meeting) (*Gesellschafter*, *Gesellschafterversammlung*) on the other hand. While the management of the GmbH is incumbent on the Managing Directors as a corporate body, their relationship with the company is typically also governed by a Managing Director Service Agreement, the Articles of Association and/or the Rules of Management, etc., by means of which the Managing Directors' freedom to act can be reduced (substantially), so that the shareholder (meeting) can very much influence the GmbH's management. The shareholder meeting is also

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entitled to issue instructions to the Managing Directors, and the Managing Directors are required to follow these instructions unless to do so would be unlawful. In some structures, German GmbHs come with additional corporate bodies, such as an Advisory Board (Beirat), a Shareholder Committee or a Supervisory Board (Aufsichtsrat). These corporate bodies can be installed voluntarily, by means of the Statutes. Under certain circumstances, namely where the regular number of employees exceeds a certain threshold, there may be an obligation to install a Supervisory Board. The members of such a Supervisory Board will be partly elected by the employees. Where a GmbH regularly employs more than 500 employees, as a general rule pursuant to the One Third Participation Act, a Supervisory Board must be installed and one third of its members will be elected by the employees; where a GmbH regularly employs more than 2000 employees, pursuant to the Co-Determination Act, a Supervisory Board must be installed and half of its members will be elected by the employees.

German AGs come with three corporate bodies, namely the Management Board (*Vorstand*), the Supervisory Board and the General Meeting (*Hauptversammlung*). Division of tasks and responsibilities is more complex than it is for a GmbH. The Management Board has more far-reaching competencies than the Managing Director of a GmbH. The Management Board is not subject to instructions by the Supervisory Board or the General Meeting (although it is certainly possible to implement catalogues of reserved matters). With regards to the composition of the Supervisory Board, the statements regarding employee participation/co-determination made in relation to GmbHs apply mutatis mutandis.

7. Are there general requirements or restrictions relating to the appointment of (a) authorised representatives / directors or (b) shareholders, such as a requirement for a certain number, or local residency or nationality?

There are no general restrictions related to the persons acting as authorized representatives or shareholders, other than those deriving from general (civil) law and related to the mental capacity and legal age. Note that embargoes, sanctions, etc. must of course be taken into consideration.

As a general rule, an individual may become an authorized representative if he/she is of legal age and as long as he/she is not disqualified from being an authorized representative (for example, because of certain convictions, the nonexistence of which must be declared vis-à-vis the commercial register in the required form).

Any Partnership must have managing partners who, in the case of commercial partner-ships, will also be registered with the commercial register. In cases of GmbH & Co. KGs, it is possible to have a legal entity (the GmbH) appointed as (sole) general partner which, in turn, would be represented by its Managing Directors (*Geschäftsführer*) so that, ultimately, there will always be an individual bearing responsibility.

Corporations must always have the relevant number of authorized representatives. In most cases, the appointment of one Managing Director of a GmbH or the appointment of one Management Board Member of an AG is sufficient. Where an entity has other corporate bodies, such as a Supervisory Board, the members to such a Board must also be appointed.

There are no local residency, nationality or visa requirements for individuals to act as authorized representatives. Difficulties and practical issues may arise where it is (almost) impossible for the relevant individual to actually enter Germany (due to visa requirements) and/or where all Managing Directors reside outside of Germany (e.g., availability for notarisation, banking KYC, and the assessment of the place of effective management for tax purposes).

For some industries, persons to be appointed as authorized representatives must possess a specific skillset and education which will need to be verified by the competent regulators.

Other than those requirements deriving from general provisions of law, embargoes, sanctions, legal capacity, mental capacity, legal age, etc., there are no specific (residency, nationality, etc.) requirements for individuals to act as shareholders.

As a general rule, there is no maximum number of shareholders in Partnerships (other than the so-called Public Partnerships or Publikums-KGs) and GmbHs. However, these company forms are usually set up as "personalistic" companies. This means that they are not intended from the outset for numerous shareholders but are more suitable for companies with a smaller group of shareholders (e.g. group companies) and/or a more in-volved ownership structure.

8. Apart from the creation of an entity or establishment, what other possibilities are there

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for expanding business operations in your jurisdiction? Can one work with trade /commercial agents, resellers and are there any specific rules to be observed?

From a German corporate law perspective, there are no specific restrictions in expanding business operations in Germany (other than those deriving from general laws and those related to prohibited goods, requirements for public permits, abidance by regulations). Therefore, unless specifically noted in the underlying constitutional documents for the respective entity or by lawful instructions of the shareholders, entities and establish-ments in Germany are free to work with trade/commercial agents and resellers. The EU Sales Agent Directive has been transposed into German law and is applicable, including to the extent related to the Agent's claim for compensation in case of termination of the agency relationship. In limited constellations and depending on the level of integration into the supplier's sales organisation and customer handover, German courts have recognised analogous compensation claims for distributors.

9. Are there any corporate governance codes or equivalent for privately owned companies or groups of companies? If so, please provide a summary of the main provisions and how they apply.

The principal corporate governance code in Germany is the German Corporate Govern-ance Code (Deutscher Corporate Governance Kodex, DCGK). It is primarily addressed to listed companies. For listed companies, Section 161 of the German Stock Corporation Act (AktG) provides for a comply-or-explain mechanism by requiring an annual declaration of conformity with the DCGK recommendations.

According to its preamble, the DCGK's recommendations and suggestions may also serve as guidance for non-capital-market-oriented companies; in practice, the DCGK is some-times used as a benchmark, in particular for larger privately held GmbHs and corporate groups.

In addition, there are non-statutory governance recommendations tailored to family-owned businesses (Governance Code for Family Businesses) and a Public Corporate Governance Code (Public Corporate Governance Kodex des Bundes) for companies with federal participations.

10. What are the options available when looking to provide the entity with working capital? i.e., capital injection, loans etc.

German law provides for various mechanisms by which working capital can be provided. If financing is to be provided as equity financing, this can for example be done by having the shareholders make additional equity contributions against issuance or without issuance of shares, the latter also referred to as informal additional equity contributions. Debt financing is also available, provided that loans can be obtained from/granted by the shareholders, companies affiliated with the shareholders/other group companies or third parties. Loans provided by shareholders and their affiliates are subject to a specific regime, pursuant to which they are inferior in rank in the event of insolvency and repayments that have occurred within certain time limits prior to the debtor becoming insolvent are subject to claw back. Converting shareholder loans into equity is generally possible, but more complex than it tends to be in other jurisdictions. Converting shareholder loans into equity can lead to tax issues, in particular where the fair market value of the loan receivable is lower than its face value. Any debt-to-equity swap must therefore be scrutinized. Mezzanine financing can also be resorted to. Apart from that, all other customary ways of financing are available as well, including factoring and fine trading.

According to section 39 of the German Insolvency Code (*Insolvenzordnung*, InsO), in in-solvency proceedings, claims/receivables under shareholder loans are inferior in rank/subordinated by virtue of the law; according to section 135 of the German Insolvency Code, repayments of shareholder loans are subject to claw back if the repayment took place one year before becoming insolvent. In cross-border constellations, conflict-of-laws questions may arise as to whether and to what extent the German insolvency-law treatment of shareholder financing applies to shareholder loans governed by foreign law or granted by foreign shareholders. These issues should be assessed on a case-by-case basis and monitored in light of ongoing legal discussion and potential future court guidance.

11. What are the processes for returning proceeds from entities? i.e., dividends, returns of capital, loans etc.

There are various ways of returning equity or proceeds, which cannot be described in full detail here. The options available and steps to be taken for payments by the subsidiary to its shareholders depend on the legal form of

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the respective subsidiary and the type of proceeds or equity that shall be paid to the shareholder.

Ordinary dividend distributions are possible. They will generally be based on yearly financial statements and resolved upon by the corresponding corporate body, i.e. generally the shareholder meeting or the General Meeting. Dividend distributions must be fed from profits which can, under certain circumstances, also include amounts stemming from profit or capital reserves.

Interim distributions during the financial year are permissible and not uncommon in practice, but they require particular care to ensure compliance with capital maintenance rules and to avoid repayment and liability risks if the distribution is not covered by freely distributable funds.

The acquisition of own shares/treasury shares by a GmbH comes with several limitations and prerequisites and would generally not be considered a customary way of financing dividends or payments to shareholders.

Capital maintenance rules must always be factored in, and it must be confirmed that the payment of the dividend, interim dividend, or other repayment to the shareholder does not lead to a violation of these rules.

It should be noted that German law comes with a rather detailed and sometimes com-plex system of capital maintenance rules and that apart from these rules, in the case of AGs, financial assistance rules must also be taken into consideration.

To the extent the German company disposes of capital or profit reserves which can be paid out without triggering a negative balance sheet and/or without a violation of Ger-man capital maintenance rules, the amounts of such reserves can be paid out to the shareholders. The exact mechanism to be followed depends on the circumstances of the individual case.

It is possible to reduce the nominal share capital of a GmbH and to use the proceeds generated by such nominal share capital reduction for repayments to shareholders. This requires a formal procedure to be followed, with notarial involvement, official publications, etc. and is a process that will require at least one year to complete. Against this background, it can be recommendable to structure equity contributions by shareholders such that they are divided into nominal share capital and other equity (fed through share premium or informal additional equity contributions, which are generally not subject to capital maintenance rules).

12. Are specific voting requirements / percentages required for specific decisions?

The following applies to the GmbH:

In principle, a resolution is adopted by a simple majority of the votes cast, with voting rights typically linked to the nominal amount of the capital share(s). The Articles of Association may deviate from the statutory default to a certain extent.

A qualified majority of three quarters of the votes cast is required by law, in particular for amendments to the Articles of Association (including share capital increases and decreases) and for the dissolution of the company. Further qualified majorities are re-quired by statute for certain measures under the German Transformation Act (*Umwand-lungsgesetz*), such as mergers, demergers, and similar reorganisations. In addition, the Articles of Association may stipulate qualified majority requirements for other matters.

The majority requirements for certain resolutions are disputed in legal literature and practice. In particular, resolutions on the exclusion of a shareholder, the continuation of the company after a dissolution event, and the approval of an Enterprise Agreement (*Unternehmensvertrag*) are often considered to require at least a qualified (three-quarters) majority (or even unanimity).

The Articles of Association may provide for additional cases in which qualified majorities or even unanimity is required, or may set higher majority thresholds than those pre-scribed by law. It is also common to include a catalogue of reserved matters in the Articles of Association, each with its own specific majority requirements.

13. Are shareholders authorised to issue binding instructions to the management? Are these rules the same for all entities? What are the consequences and limitations?

In German GmbHs, it is generally possible for the shareholder meeting to issue instructions to the Managing Directors. To the extent such instructions are lawful, the Managing Directors are held to abide by the corresponding instructions. To the extent that they believe that the corresponding instructions are not lawful, they must inform the share-holder meeting accordingly and, to the extent that the matter cannot be resolved, may face making a delicate decision.

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There is no right of the shareholder meeting to give instructions to the Managing Directors to the extent that such instructions are not lawful, would conflict with the duties of the Managing Director or may trigger personal liability of the Managing Director vis-à-vis third parties. In particular, the shareholder meeting cannot instruct the Managing Directors to not apply for insolvency proceedings, if and to the extent the prerequisites under German law for a corresponding obligation on the Managing Director being triggered, are fulfilled. To the extent the Managing Director abides by lawful instructions from the shareholders, the Managing Director is generally not liable to the Company for the corresponding action. However, this does not relieve the Managing Director of responsibility for compliance with mandatory statutory duties. In practice, it may be advisable for the Managing Director to seek an indemnification or hold harmless agreement from the Company or its shareholders for actions taken in accordance with shareholder instructions, to the extent permitted by law. Shareholder instructions may be relevant for internal allocation of responsibility, but they do not as such eliminate the managing director's statutory responsibilities.

In a German AG, there is no possibility for the General Meeting to issue instructions to the (members of the) Management Board.

14. What are the core employment law protection rules in your country (e.g., discrimination, minimum wage, dismissal etc.)?

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<table>
<tr><th>Right / Protection</th><th>Details</th></tr>
<tr><td>Conclusion of employment agreement</td><td>The German Act on the Provision of Evidence of Essential Terms and Conditions of Employment (Nachweisgesetz, NachwG) requires employers to provide employees with a record of the essential terms and conditions of employment within statutory time limits. Depending on the statutory regime applicable at the relevant time and the specific case, the permissibility of text form and electronic transmission should be checked, as German employment law contains various form requirements that may differ by topic (e.g., documentation duties, fixed-term agreements, and termination notices).</td></tr>
<tr><td>National Minimum Wage</td><td>All employees are entitled to be paid at least the national minimum wage for all working hours. The current hourly rates of pay are:
As of 1 January 2026, the statutory minimum wage is EUR 12.82 gross per hour and is subject to periodic adjustment.
There are exceptions from the entitlement to minimum wage e.g. for trainees.</td></tr>
<tr><td>Holiday</td><td>Employees are entitled to 24 working days of paid statutory holiday each year, if they have a six-day working week; and 20 working days of paid statutory holiday each year if they have a five-day working week.
Usually, in employment contracts, the contractual parties agree on longer paid holiday (30 working days of paid holiday is standard market practice).</td></tr>
<tr><td>Remuneration transparency</td><td>The EU Pay Transparency Directive (EU-Entgelttransparenzrichtlinie), which came into force in June 2023, is intended to increase remuneration transparency and reduce gender pay gaps. The key content of the EU Pay Transparency Directive is the right of employees to receive information about the remuneration structures in the company and the corporate duty to create and publish reports on gender-specific remuneration differentials. Furthermore, employers are obliged to take measures to ensure equal pay for equal work, regardless of gender. The EU Pay Transparency Directive must be transposed into national law by June 2026 at the latest. In light of this, the current German Pay Transparency Act needs to be amended; this will lead to more extensive obligations for employers in the area of pay transparency.</td></tr>
<tr><td>Working hours</td><td>Employees' average hours should not exceed 48 hours per week (in a six-day working week). Therefore, the average hours per day should not exceed eight hours.
However, there is the option to exceed the working hours per day for a limited period of time to a limit of 10 hours per day and 60 hours per week (in a six-day working week). The employer is committed to compensate this within six calendar months or within 24 weeks by achieving an eight-hour working day in average.</td></tr>
<tr><td>Rest periods</td><td>Employees are entitled to the following rest periods:
• · a rest break of 30 minutes when working more than six hours per day;
• a rest break of 45 minutes when working more than nine hours per day;
• 11 hours uninterrupted rest between two working days resp. shifts;
• Sundays and public holidays are rest days (if, exceptionally, the employee has to work on Sundays or on public holidays, the employer has to offer an official workday as a rest day).
Collective bargaining agreements can contain exceptions.</td></tr>
<tr><td>Pension rights</td><td>Employees who reach retirement age and have completed the minimum insurance period, as well as possibly other special eligibility requirements, receive old-age pension.
Basic old-age pension:
Employees are entitled to a basic old-age pension. The prerequisite is that the employee:
• has reached a certain age (pensionable age: for anyone born after 1 January 1964, the basic age threshold of 67 will apply);
• has completed a minimum insurance period (qualifying time); and
• has fulfilled certain special insurance requirements for some old age pensions.
Early pension due to age:
Employees can apply for an early pension from the age of 63 if they fulfil certain requirements. As compensation for the longer pension period, for each month up to the statutory retirement age (for the old-age pensions of severely disabled people up to 65), the pension is reduced by approximately 0.3% (discount).
All employees, including contracted employees and workers, are obliged to belong to an old-age insurance system. This also applies to self-employed people in certain professions, including farmers, artists, journalists and members of professions organized into associations, such as doctors, architects, craftsmen, pharmacists, engineers, accountants and lawyers, along with others. Self-employed people who are not subject to compulsory insurance can join the state pension scheme through compulsory insurance or voluntary insurance.
Low-paid workers (regular remuneration of a maximum of EUR 556 per month) who started their employment after 31 December 2012 are subject to compulsory pension obligations. They can, however, ask to be exempted from compulsory insurance.
Compulsory pension obligations do not apply to short-term employees and people who have worked less than three months or no more than 70 days in the calendar year and do not exercise this employment as a profession.</td></tr>
<tr><td>Discrimination</td><td>German law prohibits discrimination in employment, in particular on grounds of race or ethnic origin, gender, religion or belief, disability, age, and sexual identity.
In addition, gender quotas are set for listed companies and/or companies subject to co-determination at the Supervisory Board level. Companies listed on the stock exchange and fully subject to co-determination must have 30% of the seats on their Supervisory Boards occupied by women.</td></tr>
<tr><td>Maternity leave / pay</td><td>Female employees are entitled to take up to 14 weeks' maternity leave (six weeks before delivery and eight weeks after delivery). Under certain circumstances the maternity leave after delivery can be up to 12 weeks (e.g. premature birth, multiple births, disability of the child).
Maternity pay amounts to the average salary of the last 13 weeks before maternity leave. The statutory health insurance takes up to EUR 13 per working day. The difference to the average salary must be balanced by the employer itself. Afterwards, the employer gets the difference it has paid repaid by the compulsory insurance for employers as part of the pay-as-you-go system.
After 14 weeks of maternity leave, there is the possibility to switch into parental leave. The parental leave can be taken by both parents. The parental leave can be up to three years, and the time can be split between two parents. A parent can decide to not work at all or only work part-time.
If employees have not taken the three years before their child's 3rd birthday, they can take the remaining time. In this context, parents are allowed to take 24 months parental leave in the time after the child's 3rd birthday without any permission of the employer, while the remaining 12 months can be rejected because of operational reasons.
Employees need to inform their employer in text form at least seven weeks before their child's 3rd birthday resp. 13 weeks between the child's 3rd and 8th birthday in advance that they are planning to take parental leave.
Furthermore, the employee's job is protected during parental leave, and, in most cases, the employee can even return to the same position he/she had before the leave.
The employee enjoys special dismissal protection during both maternity leave and parental leave. In order to unilaterally terminate the employment relationship, the employer requires the approval of the competent German authority.
Even though parental leave is generally an unpaid break, parents can apply for parental allowance. Parental allowance compensates for the loss of income when a parent stops working or reduces working hours to look after a new-born child. The allowance ranges from a minimum of EUR 300 to a maximum of approx. EUR 1,800 per month and is paid for a maximum period of 14 months if the other parent also claims parental allowance for at least two months. From 1 April 2025, parental allowance cannot be claimed if the annual taxable income of couples or single parents, who are solely entitled to parental allowance, exceeds EUR 175,000.
In addition, there is the possibility to receive the so-called "parental allowance plus". Parents who want to work part-time after the birth of a child can receive a supplement to their part-time salary for a maximum period of 32 months.</td></tr>
<tr><td>Paternity leave</td><td>Paternity leave is part of the parental leave. The respective information above applies.</td></tr>
<tr><td>Shared parental leave</td><td>The respective information above about parental leave applies.</td></tr>
<tr><td>Statutory sick pay</td><td>The statutory sick pay provides for continued remuneration by the employer up to six weeks of illness. After six weeks, the health insurance pays up to 70% of the gross pay and max. 90% of the net pay for a maximum term of 78 weeks.</td></tr>
<tr><td>Statutory notice periods</td><td>For ordinary dismissals, statutory minimum notice periods apply.
The notice period for employees is four weeks to the 15th or to the end of a calendar month irrespective of the seniority of the employee.
During the optional but customary probation period of up to six months, the statutory notice period is two weeks for the employer and the employee.
The length of these minimum notice periods for employers depends on the employee's seniority with the employer and gradually increases over time. Up to a seniority of two years, the notice period is four weeks to the 15th or to the end of a calendar month. The notice period then increases in irregular intervals to up to seven months:
<table>
<tr><th>Seniority</th><th>Notice period (each effective to the end of a calendar month)</th></tr>
<tr><td>after 2 years</td><td>1 month</td></tr>
<tr><td>after 5 years</td><td>2 months</td></tr>
<tr><td>after 8 years</td><td>3 months</td></tr>
<tr><td>after 10 years</td><td>4 months</td></tr>
<tr><td>after 12 years</td><td>5 months</td></tr>
<tr><td>after 15 years</td><td>6 months</td></tr>
<tr><td>after 20 years</td><td>7 months</td></tr>
</table>
Many collective bargaining agreements – but also individual contracts, especially with white-collar or executive employees – contain longer notice periods which prevail as they are more advantageous for the employees. If contractual notice periods are shorter than the statutory minimum notice periods, the longer statutory notice periods prevail.
There is no indemnity in lieu of notice under German law. Employees generally work throughout the term of the notice period. Sending employees on garden leave is only permitted in exceptional cases, especially where the employer made a valid reservation in the employment contract.
In order to end the employment relationship at an earlier date than the expiry of the statutory notice period, the parties can conclude a termination agreement. However, this is concluded by mutual agreement between employer and employee. Generally, a severance payment is agreed in the termination agreement.
A dismissal for serious cause takes immediate effect without observing a notice period.</td></tr>
<tr><td>Unfair dismissal</td><td>The dismissal of an employee will be unfair due to the reasons mentioned below in section 15.</td></tr>
<tr><td>Statutory redundancy payment</td><td>There is no statutory severance in Germany. Employees are only entitled to severance payments under a social plan with the works council (often agreed on in the case of mass layoffs) or under a collective bargaining agreement. However, in practice, many employers and employees will agree on severance pay provisions to avoid lengthy court proceedings concerning the effectiveness of the termination. This severance will often amount to 50% of the monthly salary per year of service. However, this can vary significantly depending on the strength of the case for dismissal and the previous practice of the employer.</td></tr>
<tr><td>Statement of particulars</td><td>Employers are required to provide employees and workers with a written statement of certain terms of their employment one month after the agreed start of work at the latest.</td></tr>
</table>

15. On what basis can an employee be dismissed in your country, what process must be followed and what are the associated costs? Does this differ for collective dismissals and if so, how?

Under German labour law, there are two kinds of dismissals: ordinary dismissals and dismissals for serious cause. These two kinds differ in reason for dismissal, notice period and dismissal protection.

An unlimited employment contract can be terminated by the employer at any time by either an ordinary dismissal or a dismissal for serious cause. Alternatively, the parties can terminate the employment contract by mutual agreement.

The fixed-term employment contract ends automatically when the agreed term expires. If the employer and employee continue to execute the employment contract beyond its expiry date, the rules provided for an unlimited employment contract apply automatically. An ordinary dismissal of a fixed-term employment contract is not permissible unless the contract states otherwise. If a right to ordinary termination has been agreed, it applies to both parties. The right to execute a dismissal for serious cause cannot be excluded.

Ordinary dismissal

As a general rule, an ordinary dismissal is valid if the applicable notice period is observed and the dismissal does not violate public policy (e.g., if based on discriminatory grounds).

However, there are some restrictions. Employees in an operation with more than ten full-time-equivalent, and with more than six months' seniority, enjoy comprehensive dismissal protection under the Dismissal Protection Act. Accordingly, a dismissal has to be "socially justified", which means there has to be a specific reason for the dismissal. The Dismissal Protection Act sets out three particular categories of reasons that may socially justify a dismissal: (1) person-related reasons, (2) conduct-related reasons and (3) operational reasons.

1. A dismissal for person-related reasons is socially justified if the employee is unable to perform his/her contractual duties under the employment contract for reasons from his personal sphere. It is irrelevant if the employee is responsible for this inability or not. In practice, the most important circumstance leading to such inability is illness – either long-term illness or frequent short-term absences. However, effectively dismissing an employee due to illness is extremely difficult in Germany. Pursuant to case law of German

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labour courts, there are three strict prerequisites for such dismissal: First, at the time the dismissal is declared, it must be presumed that the employee's absence due to illness will continue in the future, which is generally indicated by severe absence times in the past (usually multiple weeks per year over a couple of years). Second, the continued absence has to be a serious detriment to the employer's business interests (e.g., loss of production or customers). Third, the employer's interests in the termination of the employment relationship have to outweigh the employee's interests in its continuation. As a dismissal is always only a final step, a relocation to another job position or any other action to avoid the dismissal must also be considered.

2. A conduct-related dismissal is socially justified if the employee deliberately breaches his/her contractual duties. According to case law, such dismissal in first instance requires a significant breach of duty by the employee to be lawful (e.g., unexcused absence or inappropriate conduct towards the employer or colleagues). Second, it must be likely that the employee will breach the contractual duties again in the future. In this context, the employer is in particular obliged to issue (usually several) formal warnings (in writing for proof). A conduct-related dismissal without at least one prior formal warning is usually invalid. Special attention should be paid to issuing effective formal warnings in compliance with the prerequisites set by German labour courts and in a properly documented way. Third, the employer's interests to terminate the employment relationship must outweigh the employee's interests. For example, social data such as the employee's age, seniority, and number of dependents must be considered to the advantage of the employee. Finally, given the dismissal's ultima ratio character, no less restrictive means may be available.

3. Dismissals for operational reasons are based on structural entrepreneurial decisions by the employer. A dismissal for operational reasons requires in a first step that the employee's job position ceases to exist due to an entrepreneurial decision of the employer, based either on external business reasons (e.g., a drop in the demand for a product) or on internal business reasons (e.g., a modification in production methods, closure of an entire business, or outsourcing of work to other companies). The underlying decision leading to the elimination of a job position is subject to review by a German labour court only to the extent to which it is arbitrary. Second, the employer must carry out a social selection which is one of the key issues in the context of dismissals for operational reasons. If the employee at risk could also perform the job of a comparable employee, the employer must assess whether the employee at risk enjoys greater social protection than the relevant colleagues being employed in the same operation. The statutory criteria for this selection process are age, seniority, maintenance obligations, and disabilities of the affected employees. In the end, the employee with the social criteria least worthy to protect would have to be dismissed. Third, there must not be any other open and reasonable job position on an appropriate hierarchy level that could be offered to the employee in question. This search for an open job position is not limited to the same operation but must also consider job positions in other operations of the same legal entity.

The notice letter only has to mention the reason for the dismissal in order to be valid in exceptional cases regulated by law. The law provides for such an exception, for example, for pregnant employees. In this case, the termination must specify the exact reason in writing.

Within the scope of the Dismissal Protection Act, the employer is also obliged to inform the employee, on request, of the reasons which led to the social selection made. If the employer fails to do so, he/she may be liable for damages. However, the notice letter takes effect regardless.

Dismissal for serious cause

Employment relationships can also be terminated for serious cause. Such serious cause exists if facts exist on the basis of which – taking all circumstances of the individual case into consideration and weighing the interests of employer and employee – the employer cannot reasonably be expected to continue the employment relationship until the notice period has lapsed or – in employment relationships for a definite period – until the agreed term has ended. Some examples include repeated persistent refusal to work, theft of the employer's property, or work for a competitor of the employer.

Furthermore, a dismissal for serious cause must be notified to the employee within two calendar weeks after the employer has obtained knowledge of the facts resulting in the dismissal. Otherwise, the dismissal is invalid.

The employer must, at the employee's request, immediately inform the employee in writing of the reasons for his/her dismissal. If the employer does not comply with this obligation, the dismissal remains effective, but the employer may be obliged to pay compensation for damages.

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Collective dismissals

To ensure that the employment agencies are informed in a timely manner about an unusually high number of new unemployed persons, employers are obliged to report mass redundancies in writing. The obligation to notify depends on the size of the company and the number of redundancies planned in the same period.

A notification of collective redundancies is required if, within 30 calendar days, more than five employees are to be dismissed in an operation employing normally more than 20 and fewer than 60 employees; 10% of regularly employed employees or more than 25 employees in establishments employing normally at least 60 and fewer than 500 employees; and at least 30 employees in establishments normally employing at least 500 employees. Whether specific categories of personnel are counted depends on their legal status in the individual case; the relevant thresholds are assessed at establishment (Betrieb) level.

The employer must also inform the works council of various details in writing. In a consultation procedure, the employer and the works council must negotiate on how to avoid dismissals and mitigate their consequences. The notification of collective redundancy for the unemployment agency must be accompanied by a statement of the works council.

Furthermore, a mass dismissal usually qualifies as an operational change resulting in the employer's obligation to enter negotiations with the works council about a reconciliation of interests and a social plan. Whereas the reconciliation of interests covers the conditions based on which the envisaged measures are to be implemented and executed, the social plan provides for actions in order to soften or compensate the disadvantages to the affected employees.

Costs / risks:

1. Severance pay

There is no statutory severance entitlement in Germany. As the underlying principle of German dismissal protection law is "in or out", a judge can only terminate court procedures by a judgment over a severance pay under special circumstances, especially when a continuation of the employment is unacceptable for the employee.

However, as wrongful dismissal procedures often last for a long time and the outcome is tricky to predict, employers usually accept a mutual settlement during the court proceedings and, therefore, a termination of the employment relationship in return for payment of severance. The severance pay is usually calculated by the formula: half of the gross monthly salary per year of seniority. Depending on the justification for the dismissal and, therefore, the employer's chances of winning the case, this amount decreases or – more likely – increases. In case of dismissal without objective reasons, the severance pay is usually at least one gross monthly salary per year of seniority.

2. Dismissal formalities

All dismissals – both ordinary dismissals and dismissals for serious cause – have to be done in writing to be valid (originally signed by a competent company representative). The reasons for the dismissal in general do not need to and should not be stated in the notice letter. Compliance with formal requirements and a provable delivery of the notice letter in due time are crucial for an effective dismissal. Particular attention should be paid to these aspects to avoid unnecessary disputes and costs on the employer's part.

If a works council exists, it has to be notified about the planned dismissal first, i.e., detailed information about the employee and the reasons for the dismissal have to be provided. Although this information can also be given verbally, written information is recommended for a stronger evidential basis in case of later disputes on the validity of the dismissal. Depending on whether the dismissal is ordinary or for serious cause, the works council has a certain number of workdays to process the request. It may consent to the dismissal, object to it, or remain silent. The employer may give notice even if the works council objects. However, notice may only be given after the applicable period for the works council hearing process has elapsed. If the works council is not informed properly, the dismissal is void.

3. Special dismissal protection

Certain categories of employees enjoy increased protection against dismissal, including severely disabled employees, pregnant employees, employees on maternity leave and employees on parental leave, etc. For these protected categories, dismissals are generally prohibited and only permitted in exceptional cases and with the prior consent of competent authorities.

Works council members also enjoy special dismissal protection, considering their office within the company. A dismissal of such employees is extremely difficult.

Unfair dismissal

If an employee wants to challenge the validity of a

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dismissal (both for ordinary dismissals and dismissals for serious cause), he/she has to file a wrongful dismissal claim at the competent labour court within three weeks from the delivery of the notice letter. Otherwise, the dismissal will be effective.

The vast majority of cases are mutually settled in court hearings – usually against payment of severance. Where in exceptional cases no agreement is reached, the employer has to demonstrate and prove that the applicable requirements for the dismissal were fulfilled. The labour court then decides whether or not the prerequisites for a lawful dismissal have been met. If this was not the case, the labour court will generally judge that the employment relationship has not been terminated effectively and that the employee has to be reinstated.

Certain senior employees may be subject to specific rules under German labour and works constitution law; the applicability of dismissal protection and works council involvement should be assessed on a case-by-case basis.

16. Does your jurisdiction have a system of employee representation / participation (e.g., works councils, co-determined supervisory boards, trade unions etc.)? Are there entities which are exempt from the corresponding regulations?

Works councils

In Germany there are no basic trade union organizations in the company. Instead, the works councils are the most important points of contact for operational problems. The works councils, in turn, work closely with the union.

The works council represents the interests of employees in the company. It monitors that the applicable laws, occupational safety regulations, collective agreements and organization-level agreements are observed by the employer. The works council also advocates the equal treatment of employees and the integration of foreign employees.

The works council has certain powers and organizational options within the company which enable it to fulfil its tasks.

The works council:

- has co-determination rights, including in hiring processes pursuant to statutory rules
- must be heard before each dismissal;
- ensures a fair pay classification;
- may negotiate with the employer on several working conditions (start and end of work, break times, overtime, on-call service, part-time, etc.);
- stands up for the rights of trainees;
- ensures occupational health and safety; and
- can request measures to combat racism and xenophobia in the company.

If there is no works council in the company, its workforce can establish a works council provided that at least five employees are regularly employed in the relevant company. Members of the works council enjoy special protection against dismissal. Works council members enjoy special protection against dismissal; ordinary dismissal is generally excluded, and extraordinary dismissal is only possible under strict statutory conditions. The protection against dismissal applies from the list for election up to the end of one year after termination of membership in the works council.

The works council can conclude works council agreements with the employer which apply for all employees of the company or for certain employee groups. Works council agreements can, for example, generate general holiday principles or holiday plans for the current year, working hours, recording of working hours, break regulations or behavioural guidelines for dealing with colleagues or customers and general principles for payment entitlements, e.g. commissions, wage extra payments or annual target planning.

Trade unions

Trade unions represent the interests of employees in certain industries, for example, in the service sector, in the metal and electrical sector, and in the hospitality industry. Trade unions are opposed by employers' associations in the respective industry.

Trade unions conclude collective bargaining agreements with the employers' associations. When a company becomes a member of an employers' association, which concludes collective bargaining agreements, the collective bargaining agreements generally apply to those employees of the company who are members of the respective trade union. However, unions may also negotiate and conclude agreements with individual employers, known as in-house collective bargaining agreements – these apply to the union-member employees of the respective company. Typically, tariff-bound employers also apply the terms of collective bargaining agreements to non-union employees by

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contractual reference in order to realize company-uniform working conditions.

Some collective bargaining agreements have been declared generally binding by the responsible federal ministry and, therefore, apply to all employees in the respective industry regardless of their union membership.

If employers refuse to conclude collective bargaining agreements or to accept certain conditions in collective bargaining agreements, unions can strike the employers under certain conditions in order to enforce their demands.

Co-determination at the Supervisory Board level

Employers being incorporated as, for example, a German company with limited liability (Gesellschaft mit beschränkter Haftung, GmbH) or a German publicly listed company (Aktiengesellschaft, AG), are subject to the obligation to introduce employees' co-determination at the Supervisory Board level if specific thresholds are achieved in terms of the number of regularly employed employees.

If a company regularly employs more than 500 employees, the German One Third Participation Act (*Drittelbeteiligungsgesetz*) requires a Supervisory Board to be staffed with employee representatives at a level of one third.

Pursuant to the German Co-determination Act (*Mitbestimmungsgesetz*), the Supervisory Board of a company employing regularly more than 2,000 employees must be composed of 50% employee representatives.

17. Is there a system governing anti-bribery or anti-corruption or similar? Does this system extend to nondomestic constellations, i.e., have extraterritorial reach?

Germany has an extensive anti-corruption regime under the German Criminal Code (*Strafgesetzbuch*, StGB). Key provisions cover bribery and the granting/acceptance of advantages involving public officials (Sections 331-334 StGB extending liability to omissions, with Section 336 StGB) and bribery in commercial business transactions (in particular Section 299 StGB). Additional specific offences apply, inter alia, to bribery of elected mandate holders (Section 108e StGB) and to bribery in the healthcare sector (Sections 299a and 299b StGB).

In addition to criminal law, tax law restricts the deductibility of expenses connected with unlawful payments.

German criminal law can, depending on the circumstances, also apply to cross-border constellations. In particular, liability may arise where relevant conduct takes place (in whole or in part) in Germany or where statutory jurisdiction rules otherwise establish a sufficient connecting factor. Cross-border matters require a case-by-case assessment.

18. What, if any, are the laws relating to economic crime? If such laws exist, is there an obligation to report economic crimes to the relevant authorities?

Germany has a broad set of criminal offences that are typically classified as economic crime (*Wirtschaftsstraftaten*), including, depending on the facts, fraud, breach of trust, insolvency offences, corruption offences, money laundering and various sector-specific offences.

Germany does not, as a general rule, provide for criminal 'punishment' of legal entities in the same way as some other jurisdictions. However, companies can be subject to significant administrative fines and confiscation measures, in particular under the German Administrative Offences Act (*Ordnungswidrigkeitengesetz*, OWiG), including association fines (Section 30 OWiG) and fines for breach of supervisory duties (Section 130 OWiG). Confiscation provisions may also apply.

As to reporting obligations, there is no general duty to report all economic crimes to authorities. Reporting duties may, however, arise in specific regulated contexts and, in particular, under anti-money laundering rules for obliged entities.

19. How is money laundering and terrorist financing regulated in your jurisdiction?

The topic of anti-money laundering has several facets in German commercial and commercial criminal law.

On the one hand, those who attempt to introduce illegally acquired assets into the legal financial and economic system are subject to criminal prosecution under Section 261 of the German Criminal Code (*Strafgesetzbuch*, StGB).

On the other hand, the German Anti-Money Laundering Act (*Geldwäschegesetz*, GwG or AMLA) imposes various notification, due diligence and documentation obligations

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to better prosecute those who commit money laundering offenses. The AMLA is regularly updated and amended.

Violations of obligations under the AMLA may constitute administrative offenses that can be punished by significant financial penalties (generally up to one million euros or up to twice the economic benefit derived from the violation; in specific cases, even up to five million euros or up to 10% of the total turnover of the violating company in the year prior to the fine decision) as well as so-called "Naming & Shaming" sanctions (i.e. public online listing of final decisions on fines as well as the natural and legal persons responsible for the violation).

Obligations for specially obliged parties

The AMLA provides for certain obligations regarding specially obliged parties (Section 2 para. 1 AMLA) such as credit and financial institutions, lawyers, tax advisors and public notaries, auditors and certified public accountants, commercial traders of goods, real estate agents, insurance companies, organizers and brokers of games of chance and art brokers and art warehouses.

In principle, these parties must always pay particular attention to whether there are indi-cations of money laundering among their customers or business partners and in relation to all their transactions.

A central element of the AMLA is the strengthening of the so-called risk-based approach. Above all, this includes the introduction of so-called risk management. Obliged parties must have an effective risk management system in place that is "appropriate in view of the type and extent of their business activities" (Section 4 para. 1 AMLA). This includes the duty to undertake corresponding risk analyses and implement sufficient safeguards.

For specific industries the AMLA generally provides for the obligation to appoint a money laundering officer (e.g. for organizers and brokers of games of chance as well as credit and financial institutions). In addition, the competent supervisory authority may order the appointment of a money laundering officer for a company not belonging to this group if it deems this appropriate. The money laundering officer is required to ensure that the company implements the provisions of the AMLA and to monitor compliance with the measures adopted.

The AMLA further regulates the due diligence obligations of the obliged parties with re-gard to their business partners. These are obligations that must be fulfilled by the obliged party when a business relationship is established or, under certain conditions, during or even outside of business relationships.

The most important obligation is the obligation to identify the business partner and the persons acting for the business partner. An individual is identified by their first and fami-ly name, place and date of birth, nationality and address (on basis of valid ID card / passport etc.). A legal entity can be identified – based on register extracts and similar documents – by its company name including legal form as well as registration details (if any). Also, the representatives of a legal entity are to be identified.

Furthermore, the ultimate beneficial owner (UBO) of the business partner must be iden-tified by the obliged party.

Extensive record-keeping and storage obligations require the obliged party to keep the identification data for five years.

Obliged parties must report suspicious circumstances to the Financial Intelligence Unit (FIU) (reporting obligation for suspicions). Causes for reporting include a high number of different bank accounts, unusual large cash deposits, high money transfers (single pay-ment or split into various transfers), transactions with partners located in 'high-risk geo-graphic areas', products or transactions that could promote anonymity, receipt of pay-ments for goods or services from unknown or unrelated third parties, no or insufficient identification information, transactions with proxies whose basic relationship is not iden-tifiable.

Obligations with regard to the transparency register

The German electronic transparency register contains information on the UBOs of legal entities under private law, registered partnerships, trusts and certain special legal ar-rangements who must notify their UBOs to the German transparency register authority (for details see section 24 below).

The transparency register can be inspected by authorities, courts and certain other public institutions for the fulfilment of their statutory duties as well as specially obliged parties for the fulfilment of their own due diligence obligations. The transparency register has been accessible to all members of the public as of 1 January 2020 (Section 23 para. 1 sent. 1 no. 3 AMLA). However, the underlying provision of the 5th EU Anti-Money Laun-dering Directive has been declared invalid by the ECJ with judgment of 22 November 2022 (cases C-37/20 and C-601/20). Access rules and administrative practice should be verified for the relevant publication date.

In addition to abovementioned financial and "Naming & Shaming" penalties, non-compliance with notification obligations to the German transparency register bears the

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risk of a “notification of inconsistency” (Unstimmigkeitsmeldung; Section 23a AMLA). These are notifications of specially obliged parties (as defined under section 24 below) to the German transparency register authority (German Federal Gazette; Bundesanzeiger Verlag) regarding a potentially incompliant transparency register situation or missing entries of UBOs. Such notifications of inconsistency generally lead to highly time and cost extensive administrative proceedings which may preclude or significantly delay the es-tablishment or continuation of business relationships with specially obliged parties due to their own abovementioned due diligence obligations (incl. the identification of benefi-cial owners).

The “Sanctions Enforcement Act II” (Sanktionsdurchsetzungsgesetz II) entered into force on 28 December 2022 also provided for the registration of certain real estate data in the German transparency register for entities registered in the land registers as owner (Sec-tion 19a AMLA). Whereas the registration is made by the German registry authority itself based on information provided by responsible German (land register) authorities (Sec-tion 19b AMLA) there will be a “real estate related” notification of inconsistency (Un-stimmigkeitsmeldung) in place as of 1 January 2026 (Section 23b AMLA). This real estate data cannot be inspected by the public (Section 23 para. 1 sent. 5 AMLA).

On the level of the European Union a comprehensive “EU Anti-Money Laundering Pre-vention Legislative Package” has been entered into force in July 2024, including EU regu-lations (which will be directly applicable) and an EU directive that must be transposed into national law. The new EU framework provides for a phased application timeline that should be checked against the relevant EU legal acts. The anti-money laundering pack-age’s aim is a harmonized framework for anti-money laundering in the EU.

20. Are there rules regulating compliance in the supply chain (for example comparable to the UK Modern Slavery Act, the Dutch wet kinderarbeid, the French loi de vigilance)?

Yes, the German Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz*). The Supply Chain Due Diligence Act is applicable to companies, irrespective of their legal form, which have their main place of administration, statutory seat or a registered branch in Germany and regularly employ more than 3000 employees (as of 1 January 2023) or more than 1000 employees (as of 1 January 2024). The Supply Chain Due Diligence Act imposes rather far-reaching obligations on companies subject to the regulations of the act, which aim at ensuring that the following overarching principles are adhered to:

- the prohibition of the employment of children under the minimum permissible age;
- the prohibition of the worst forms of child labour for children under 18 years of age (slavery, prostitution, and the like);
- the prohibition of the employment of persons in forced labour;
- the prohibition of all forms of slavery and practices similar to slavery;
- the prohibition of disregarding the obligations of labour protection applicable under the applicable national law;
- the prohibition of disregard for freedom of association;
- the prohibition of unjustified discrimination in employment;
- the prohibition of withholding a fair wage (at least equal to the minimum wage established by the applicable law);
- the prohibition of causing harmful soil changes, water pollution, air pollution, harmful noise emissions and excessive water consumption, to the extent that they are likely to interfere with some more specifically defined human rights positions;
- the prohibition of unlawful eviction and the prohibition of unlawful deprivation of land and waters (land grabbing);
- the prohibition of the use of security forces when there is a threat of disregard for the prohibition of torture or the freedom of association and union, or injury to life or limb; and
- the prohibition of any action not covered by the above prohibitions which is likely to violate human rights in a particularly serious manner.

o In terms of scope and compliance mechanics, the LkSG is considered comparatively demanding by many affected companies. o Non-compliance can trigger considerable sanctions.

It should be noted that the German Supply Chain Due Diligence Act is currently receiving criticism and it is currently part of the German political debate as to whether, as part of aiming at fostering economic growth, affected companies may eventually be temporarily exempted from the obligations under the Act or whether at least some of the administrative efforts associated with the Act can be reduced. There is ongoing political

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debate about possible exemptions or administrative relief, but as of March 2026, the law is still in force as described.

When discussing the German Supply Chain Due Diligence Act, it is also important to con-sider (the upcoming implementation of) the EU Corporate Supply Chain Due Diligence Directive (CSDDD). The CSDDD formally entered into force on July 25, 2024, and should have been implemented/transposed into national laws of the individual EU member states by July 26, 2026. The CSDDD establishes a staggered compliance timeline, giving organizations time to implement the law's requirements based on their size and revenue. With phased deadlines originally scheduled to start in 2027, the largest companies will be the first to comply, followed by additional groups over the next two years. It should be noted, however, that, as part of the so-called "omnibus package" (EU Competitiveness Package), the European Commission has postponed the original transposition and application deadlines. Member States must now implement the CSDDD by July 26, 2027; the application requirements for companies will begin in stages from July 26, 2028, for large companies (more than 3,000 employees and EUR 900 million in turnover) and later for other companies. Further future developments with respect to implementation, deadlines and scope should be monitored.

Another piece of European legislation that needs to be taken into consideration is the European Union's Corporate Sustainability Reporting Directive (CSRD), which entered into force on January 5, 2023. The CSRD is supposed to modernise and strengthen the rules concerning the social and environmental information that companies have to re-port. Under the CSRD, a broader set of large companies, as well as listed SMEs, will be required to report on sustainability. Some non-EU companies will also have to report if they generate over EUR 150 million on the EU market. The CSRD should have been implemented/transposed into German law by July 6, 2024, but the German legislator failed to enact the relevant laws. As a result, there is currently debate in Germany as to what the non-implementation means for businesses active in Germany and their stakeholders, in particular, members of the Supervisory Board. As is the case for CSDDD, the CSRD's own application deadlines (for large companies, listed SMEs, non-EU companies) are also subject to potential adjustment as part of the omnibus package. Implementation status and compliance deadlines should be monitored.

In view of the economic development of the Eurozone, which is lagging behind other markets, as well as criticism received from entrepreneurs in view of the ever-increasing regulatory burden that European companies are facing, there are currently plans for streamlining some of the applicable rule sets. At EU level, ongoing initiatives aim to calibrate and, in some areas, simplify the interaction between sustainability due diligence and reporting regimes (including CSDDD/CSRD and the EU taxonomy). The applicable timelines and final scope should be verified for the relevant publication date.

Another regulatory element that companies will soon need to deal with relates to the implementation of the European Accessibility Act. On 28 June 2025, the Accessibility Strengthening Act (*Barrierefreiheitsstärkungsgesetz*, BFSG), enacted in 2021, will come into force in Germany. This law serves to implement Directive (EU) 2019/882 of 17 April 2019 on the accessibility requirements for products and services, in short, the European Accessibility Act. Its main objective is to ensure that people with mental or physical disabilities can use digital services without any restrictions, just as people without disabilities can. The BFSG introduces accessibility requirements for certain products and services; affected companies should assess scope, technical implementation and enforcement risks.

21. Please describe the requirements to prepare, audit, approve and disclose annual accounts / annual financial statements in your jurisdiction.

According to the German Commercial Code, German companies/entities (i.e. any commercial partnership and every corporation, such as GmbH or AG) are required to prepare, approve and publish or deposit their annual accounts/annual financial statements. For purposes of the specific requirements or relief from certain requirements for preparation, approval and filing/publication in relation to timing and scope of documents forming part of the annual accounts/annual financial statements, pursuant to the provision of the German Commercial Code, a distinction is made between large, medium-sized, small and micro companies on the basis of certain size criteria (i.e., balance sheet total, net turnover and average number of employees during the financial year). Based on an EU directive adapting the thresholds of the criteria for determining company size classes in line with inflation (Directive (EU) 2023/2775 of 17 October 2023), an amendment increasing the thresholds for the criteria "balance sheet total" and "net turnover" in German Commercial Code (*Handelsgesetzbuch*) entered into force on 17 April 2024. The following thresholds currently apply:

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Size classes / size criteria	Micro	Small	Medium-sized	Large
Balance sheet total in EUR	≤ 450,000	> 450,000 ≤ 7,500,000	> 7,500,000 ≤ 25,000,000	> 25,000,000
Net turnover in EUR (in the last 12 months prior to the balance sheet date)	≤ 900,000	> 900,000 ≤ 15,000,000	> 15,000,000 ≤ 50,000,000	> 50,000,000
Average number of employees during the financial year	≤ 10	> 10 ≤ 50	> 50 ≤ 250	> 250

[Thresholds should be verified for the relevant accounting period, as they are subject to periodic adjustment.]

As a general rule, the annual accounts/annual financial statements shall – depending on the size of the Company – comprise of the balance sheet, the profit and loss statement, the notes to the accounts (*Anhang*) and the management report/annual report (*Lagebericht*). These documents shall constitute a composite whole (annual accounts) whereby, depending on the size of the company, certain parts, such as profit and loss statement and/or the management report/annual report (*Lagebericht*) are exempted.

The annual accounts have to be drawn up within three months for medium-sized and large companies as from the end of the relevant accounting period/accounting year end ("accounting period"). The annual accounts of micro and small companies have to be drawn up within six months as from the end of accounting period.

The annual accounts need to be approved by the competent corporate bodies, e.g. the shareholder meeting of a GmbH or in general by the Supervisory Board of an AG. Deadlines for such approval as set by the specific laws applicable to the relevant entity type must be considered. Annual accounts must be prepared and approved within the statutory deadlines applicable to the entity type and, where relevant, the company's size class. The decision on the appropriation of annual results/distributable profits (e.g. profit distribution or profit carried forward) will be made in the annual shareholder meeting.

The annual accounts of medium-sized and large companies have to be audited by an independent or certified public accountant auditor. Consolidated accounts and the consolidated annual report have to be audited as well. If the annual accounts have to be audited, the approval by the shareholder meeting may not be given prior to the completion of the audit of the annual accounts.

Annual accounts must be filed electronically with the competent publication system (currently via the German Companies Register (*Unternehmensregister)* as applicable) within the statutory filing deadline (i.e. no later than 1 year following the accounting year end date). However, there are different obligations for medium-sized and large companies, as well as for small companies and for micro companies, regarding which documents forming part of the annual accounts are to be disclosed electronically with the German Companies Register (*Unternehmensregister*).

Annual accounts are to be submitted to German Companies Register (*Unternehmensregister*) for the first time for financial years beginning after 31 December 2021 and to the German Federal Gazette (*Bundesanzeiger*) for the last time for financial years beginning before 1 January 2022.

The Corporate Sustainability Reporting Directive (CSRD, Directive (EU) 2022/2464 of 14 December 2022) on corporate sustainability reporting is intended to create a new framework for reporting by European companies covering all environmental, social and governance (ESG) aspects. Despite the lapse of the respective deadline, the directive has not yet been transposed into German law. The impacts of a lacking transposition are not clear. For further details also refer to question 20 – rules regulating compliance in the supply chain.

22. Please detail any corporate / company secretarial annual compliance requirements?

The annual corporate compliance requirements as provided for under German law, con-sist of the preparation, approval and the publication or deposit of the annual accounts as described in more detail under section C 7-21 before. Failure to meet applicable statutory deadlines can lead to considerable penalties or legal action against a company or its Managing Directors under statutory provisions or applicable laws.

Not filing/not publishing the annual accounts or filing the annual accounts too late can result in a fine/penalty for the company or its Managing Directors, member of the Management Board, in an amount of EUR 2,500 up to EUR 25,000 issued by the Federal Office of Justice (*Bundesamt für Justiz*). The fine/penalty can be avoided if publication of the annual accounts is made within six weeks after the receipt of the penalty letter of the Federal Office of Justice requesting the company to submit the annual accounts. No ex-tension of this term is possible. If the six weeks term is not met, the Federal Office of Justice will impose further fines until the publication has been made. Depending on the circumstances, late filing and resulting penalties may also give rise to internal liability issues for managing directors. The company can

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be held liable for faults of its Managing Directors as well. The Federal Office of Justice also has the power to collect fines via compulsory enforcement proceedings.

23. Is there a requirement for annual meetings of shareholders, or other stakeholders, to be held? If so, what matters need to be considered and approved at the annual shareholder meeting?

For a GmbH, shareholders must adopt resolutions on the approval of the annual financial statements and on the appropriation of profits (e.g., profit distribution or profit carry-forward) within the statutory corporate process. Generally, the decision on the discharge of the managing directors and the appointment of the statutory auditor will also be part of such shareholder meeting. In practice, this is typically done by an ordinary shareholders' meeting, but resolutions can also be adopted in other permitted forms (e.g., written resolutions, virtual meetings), subject to statutory requirements and the Articles of Association.

An AG must hold an annual general meeting (Hauptversammlung). The general meeting resolves in particular on the appropriation of distributable profits (Bilanzgewinn) and, where applicable, on the adoption of the annual financial statements if adoption has been allocated to the general meeting under the statutory regime.

24. Are there any reporting / notification / disclosure requirements on beneficial ownership / ultimate beneficial owners (UBO) of entities? If yes, please briefly describe these requirements.

German reporting / notification / disclosure requirements on beneficial ownership / UBO are regulated in the German Anti-Money Laundering Act (*Geldwäschegesetz*, GwG or AMLA).

Certain specially obliged parties (e.g. credit institutions, financial institutions, tax advisors, auditors, public notaries, insurance companies) must identify the UBO of a business partner for the fulfilment of their own due diligence obligations. For such purpose, the business partner is obliged to disclose the relevant information and documents to the specially obliged party (Section 11 para. 6 AMLA).

Legal entities under private law and registered partnerships (incl. registered civil law partnerships) with registered seat in Germany must obtain and maintain the relevant information on their UBOs, keep it up-to-date and immediately notify the German transparency register authority for entry in the transparency register (Section 20 para. 1 sent. 1 AMLA). The same obligation applies to administrators of trusts domiciled, or with their registered office, in Germany, and to trustees of special legal arrangements domiciled, or with their registered office, in Germany (Section 21 para. 1 sent. 1, para. 2 AMLA).

For foreign legal entities or registered partnerships, only an extraordinary, "real estate related" notification obligation might apply under certain conditions (Section 20 para. 1 sent. 2, sent. 3 AMLA).

The data on the UBOs to be registered comprises (Section 19 para. 1 AMLA): First and surnames, date of birth, place of main residence, type and extent of the beneficial inter-est and all nationalities.

The registered data of the UBOs must correspond to respective up-to-date ID card / passport data.

In case the registered data on the UBOs changes (e.g. change in the composition of UBOs, change of place of main residence, etc.) an updated notification to the German transparency register is required.

25. What main taxes are businesses subject to in your jurisdiction, and on what are they levied (usually profits), and at what rate?

Corporate Taxation:

Residence: A corporation is resident if it maintains its registered office (as determined by its articles of incorporation) or effective place of management in Germany.

Basis: Residents are taxed on worldwide income; non-residents are taxed only on Ger-man-source income. Branches are taxed in the same way as subsidiaries.

Taxable income: Corporate income tax is imposed on a company's profits, which consist of business/trading income, passive income, and capital gains. Business expenses may be deducted in computing taxable income.

Rate: The corporate income tax rate is 15% (15.825%, including the solidarity surcharge); the rate will decline by 1% each year starting 2028 to 10% by 2032. The municipal trade tax typically ranges between 14% and 17%, and the minimum rate is 7%. The effective corporate income tax rate (including the solidarity surcharge and trade tax) typically ranges between 30% and 33% (25% to 28% as of 2032).

Surtax: A 5.5% solidarity surcharge is levied on the

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corporate income tax.

Alternative minimum tax: There is no alternative minimum tax.

Global minimum tax (Pillar Two): Germany has transposed into its domestic legislation the EU “Pillar Two” directive that is designed to ensure a global minimum level of taxation of 15% for multinational enterprise groups and large-scale domestic groups within the EU with annual consolidated revenue of at least EUR 750 million. The IIR (income inclusion rule) applies for accounting periods beginning after 30 December 2023 and the UTPR (sometimes referred to as the undertaxed profit(s) rule or the undertaxed payments rule) applies for accounting periods beginning after 30 December 2024. Germany also has opted to adopt a qualified domestic top-up tax (sometimes referred to as a QDMTT), applicable for accounting periods beginning after 30 December 2023.

Taxation of dividends: Dividends and capital gains derived from qualifying shareholdings are, subject to statutory conditions and exceptions, largely tax-exempt at the corporate level (often effectively 95% exempt). The detailed requirements differ depending on the tax type (corporate income tax vs. trade tax) and the specific holding structure.

Capital gains: Capital gains generally are included in taxable income. Capital gains derived from the sale of a domestic or foreign corporate subsidiary generally are 95% tax exempt.

Losses can generally be carried back (subject to statutory limitations) and carried for-ward. Loss utilisation is subject to Germany's minimum taxation rules and to change-in-ownership restrictions, with various exceptions and relief provisions available in specific constellations. The applicable limits and percentages should be verified for the relevant tax year, as they are subject to legislative change.

Foreign tax relief: Foreign tax paid may be credited against German tax that relates to the foreign income or deducted as a business expense. Germany typically applies the exemption system.

Participation exemption: See “Taxation of dividends” and “Capital gains,” above.

Holding company regime: There is no holding company regime.

Incentives: Incentive programs are available, such as investment grants for certain start-ups and for small and medium-sized businesses. Regional incentives for investment and job-creation projects are available as well. Further, a research and development (R&D) tax incentive of up to EUR 3 million (4,2 million for SME) per year per entity/group has been introduced. In addition, attractive non-repayable cash grants are offered, e.g., for R&D in the energy sector, life science, manufacturing and in the digital and semiconductor sector.

Withholding tax:

Dividends: A statutory rate of 25% (26.375%, including the solidarity surcharge) applies to dividends paid to residents; the withholding tax typically is creditable or refundable for residents. A statutory rate of 25% (26.375%, including the solidarity surcharge) applies to dividends paid to non-residents, For non-residents, the statutory rate may be reduced or eliminated under an applicable tax treaty or under EU directives (e.g., the Parent-Subsidiary Directive), typically subject to anti-abuse provisions and, in many cases, an exemption certificate or refund procedure. No tax is levied on dividends qualifying under the EU parent-subsidiary directive (PSD). The distributing company may apply the ex-emption under the directive or a reduced withholding tax rate under a treaty only if the recipient obtains a clearance certificate from the tax authorities in advance and presents the certificate before the payment is made; otherwise, a refund may be possible.

Interest: Withholding tax generally is not levied on interest paid to residents or non-residents, except for interest on publicly traded debt, interest received through a Ger-man payment agent (usually a bank), convertible bonds and certain profit participating loans. The statutory rate is 25% (26.375%, including the solidarity surcharge). Where interest is paid to non-residents, the rate may be reduced under a tax treaty, or an ex-emption may be available if the EU interest and royalties directive (IRD) applies.

Royalties: Withholding tax is not levied on royalties paid to residents. The withholding tax on royalties paid to a non-resident company or an individual is 15% (15.825%, including the solidarity surcharge), unless the EU IRD applies or the rate is reduced under a tax treaty. The payer may apply the exemption under the directive or a reduced withholding tax rate under a treaty only if the recipient obtains a clearance certificate from the tax authorities in advance and presents the certificate before the payment is made; other-wise, a refund may be possible.

Fees for technical services: There is no withholding tax on fees for technical services.

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Branch remittance tax: There is no branch remittance tax.

Anti-avoidance rules

Transfer pricing: Business dealings between related persons must be in accordance with transactions that would have been agreed upon by independent third parties dealing at arm's length, under which the underlying principle is the normal degree of commercial prudence shown by a sound and conscientious business manager. Taxpayers are re-quired to document all facts and evidence that support their positions. Specific transfer pricing rules apply to cross-border intragroup transfers of functions. An exit tax will be imposed on the "profit potential" that is deemed to be transferred, based on the dis-counted cash flow value of the subsidiary/branch before and after the restructuring. Germany generally applies the authorized OECD approach.

CbC reporting, in line with the OECD's BEPS action 13, is required.

Interest deduction limitations: A taxpayer may immediately deduct (net) interest expense up to 30% of taxable earnings before net interest expense, tax, regular depreciation, and amortization (tax EBITDA). An EBITDA carry forward is generated if the taxpayer has net interest expense lower than 30% of the EBITDA for tax purposes, unless an exception to the interest expense limitation (see below) applies. The difference between 30% of the EBITDA and the net interest expense (excess EBITDA) may be carried forward and used in the following five years when the net interest expense exceeds 30% of current EBITDA. The limitation does not apply where: (i) the annual (net) interest burden is less than EUR 3 million; (ii) the taxpayer is not part of a group of companies; or (iii) the taxpayer can demonstrate that the equity ratio of the German borrower does not fall short by more than two percentage points of the worldwide group's equity ratio. Excess interest may be carried forward indefinitely (although change-in-ownership rules apply). Disallowed interest expense will not trigger withholding tax.

Controlled foreign companies: Passive income of subsidiaries in low or no tax jurisdictions will be attributed to a German shareholder if such shareholder and its related par-ties hold, directly or indirectly, more than 50% of the subsidiary. Typical passive income is income from the rental of real estate, income from licensing, or income from the lending of capital. A jurisdiction is regarded as a low tax jurisdiction if the income of the subsidiary is subject to an effective tax rate of less than 15% (25% for periods before 2024). Credits and refunds at the shareholder level are taken into account when determining whether the effective tax rate falls below the 15% threshold. Credit for tax paid on at-tributed income can be granted upon the application of the taxpayer.

Anti-hybrid rules: General anti-hybrid rules are in place, which are based on the EU anti-tax avoidance directive (ATAD 2). Additional anti-hybrid rules exist in connection with dividends received (linking rules) and certain "double-dip" structures involving German partnerships.

Economic substance requirements: Based on the amended anti-treaty shopping rule, relief from withholding tax under a treaty or the EU PSD or IRD is not available to a foreign company if, and to the extent that:

- Its shareholders or persons that are beneficiaries under the applicable statute would not be entitled to the same relief under the same treaty or the relevant EU directive had they been direct recipients of the income ("shareholder test"); and
- There is no material link or connection between the income generating source and the economic activity of the receiving corporation, partnership, or other taxable enti-ty; the mere realization of the income, the distribution to shareholders or persons that are beneficiaries under the applicable statute, and activities that lack adequate physical substance do not qualify as economic activity ("activity test").

If the conditions of both tests are fulfilled, treaty abuse is presumed, and the presumption of treaty abuse can only be rebutted if and to the extent that the conditions of the "main purpose exception" or the "listed entity exception" are fulfilled. The rule applies in addition to limitation on benefits clauses and general anti-avoidance rules, and the bur-den of proof for meeting the conditions lies with the foreign shareholder.

Disclosure requirements: A taxpayer generally must disclose all facts relevant for taxation, especially regarding transactions with foreign related parties.

Mandatory disclosure rules for certain types of restructurings are in place, which are based on DAC 6.

Exit tax: The tax law allows the taxation of unrealized capital gains when Germany's right to tax the gains on the sale or use of assets is restricted or excluded as a result of a transaction (e.g., if a taxpayer transfers its tax residence to a foreign jurisdiction or if an asset is transferred out of Germany). For certain transfers, the exit

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tax is imposed on the "profit potential" that is deemed to be transferred out of Germany, usually measured by performing a hypothetical arm's length analysis. Valuation can be based on the capitalized earnings approach or the discounted cash flow method; comprehensive valuation of the respective "business function" instead of an asset-by-asset valuation may be re-quired.

General anti-avoidance rule: Germany has a long-standing general anti-avoidance rule (GAAR), under which taxpayers are not allowed to circumvent the tax law by abusing legal tax planning opportunities. Abuse is presumed when the taxpayer chooses an inappropriate legal structure that, in comparison with an appropriate structure, leads to a tax advantage not intended by the law. The presumption may be rebutted by demonstrating that the particular structure has been chosen for non-tax reasons, provided such reasons are relevant considering all the facts and circumstances. Specific anti-avoidance rules apply for payments to recipients that are resident in a jurisdiction that is on the EU "black list".

Value added tax:

Taxable transactions: VAT is levied on the sale of goods and the provision of services.

Rates: The standard rate is 19%, with reduced rates of 7% and 0% applying to specified transactions. Certain transactions are exempt.

Registration: German entrepreneurs generally must register for VAT purposes. Small business relief may be available if turnover remains below statutory thresholds (which should be verified for the relevant year). Non-residents that make taxable supplies of goods or services in Germany must also register.

Other taxes on corporations:

Social security contributions: Employed individuals are required to make a contribution for pension, health, nursing care, and unemployment insurance. The employer generally is required to bear 50% of the total contribution. Additional charges (e.g., statutory accident insurance, insolvency fund levy, etc.) may apply.

Payroll tax: There is no payroll tax, but the employer is required to withhold wage tax on a monthly basis from an employee's income and remit it to the tax authorities.

Wage tax certificates must be transmitted electronically and be authenticated by the employer.

Capital duty: There is no capital duty.

Real property tax: Tax is levied by the municipality in which real estate is located. The rate consists of two elements: a fixed rate depending on how the real estate is used and a rate depending on the municipality. The tax basis is the tax value of the property, calculated based on specified valuation principles.

Municipal trade tax: This tax is an income tax levied by municipalities at a minimum rate of 7%. All businesses with commercial activities carried out through a subsidiary or a non-resident's commercial permanent establishment in Germany are liable for trade tax. Corporations are deemed to carry on commercial enterprises (trade or business), regard-less of their actual activities. Individuals, alone or in partnerships, are not liable for trade tax on professional or other independent services unless the activities are deemed to be commercial under the income tax law. The municipal trade tax rate varies, but averages between 14% and 17% of income. The trade tax is based on taxable income as calculated for corporate income tax purposes, with several income adjustments.

26. Are there any particular incentive regimes that make your jurisdiction attractive to businesses from a tax perspective (e.g. tax holidays, incentive regimes, employee schemes, or other?)

National and international subsidy programs span a diverse spectrum, in particular:

- Research & Development & Innovation (R&D&I)
- Investments in environment, energy or sustainability measures
- Investments in sites or production facilities

Eligible areas include digitalization, technology, energy efficiency, site expansion and many more.

The subsidy/funding instruments, which are applied individually for each program, are as broad as the areas covered by the programs. This means that funding for projects can be provided in various ways, such as for example, but not limited to:

- Non-repayable grants
- Public grants that do not have to be repaid if used properly
- R&D tax incentives – provided certain conditions are met, companies and institutions of all types and sizes are eligible for tax incentives for their R&D projects (also see statements with respect to tax matters

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hereinabove)
- Loans at preferential interest rates
- Loans granted by specialized development banks (in some cases extended by commercial banks, "*Hausbankprinzip*"), whose loan interest rate is significantly lower than the usual market interest rate

These subsidies are complemented by public guarantees for the acquisition of bank loans and public equity capital to increase the equity ratio.

Grants and subsidies often come with specific prerequisites, terms and conditions, which can relate to the specific usage of the funds received, limitations with respect to the goods acquired, the need for maintaining a specific number of employees, limitations on dividend distributions and other return of funds to shareholder, etc.

Apart from "regular" grants and subsidies as depicted hereinabove, additional support and aid programs are made available in specific constellations (and generally after consultation with the competent European Union authorities, in order to avoid a conflict with EU subsidy rules). Recent examples include specific programs initiated for companies/industries affected by the Covid-19 pandemic as well as recent dramatic increases of energy (production) cost.

With regards to employees, Germany has a system of short time work allowances. The employment agency (Agentur für Arbeit) pays the short-time work allowance as partial compensation for a loss of earnings caused by a temporary cut in working hours. This relieves employers from employment costs. Companies can continue to employ their employees even in the event of a loss of orders. In other words, the short-time work allowance helps to prevent job losses. The short time work allowances are subject to certain prerequisites that must be met, as well as terms and conditions. These have been subject to repeated changes over time.

It must be noted that wrongful applications for grants and subsidies can trigger criminal liability, in particular, criminal liability pursuant to Section 264 of the German Criminal Code (subsidy fraud). Subsidy fraud is an abstract endangerment offense, so that it is sufficient for the offense to be committed if the applicant provides incorrect or incomplete information when applying for the subsidy (e.g. the reimbursement of short-time work allowance). The occurrence of pecuniary loss is not a prerequisite for the actions to be qualified as a criminal offense. In contrast to "classic" fraud, on the subjective side it is sufficient for criminal liability for subsidy fraud if the potential perpetrator acts recklessly, i.e., grossly negligently.

27. Are there any impediments / tax charges that typically apply to the inflow or outflow of capital to and from your jurisdiction (e.g., withholding taxes, exchange controls, capital controls, etc.)?

For tax matters (withholding taxes, exit taxes), please refer to the section dealing with such matters.

The law of the European Union (EU) lays down as a rule freedom from restrictions on the movement of capital both in relations between member states and in relations with third countries. Germany does not generally impose exchange controls or capital controls on cross-border capital movements. Within the EU framework, the free movement of capital applies, subject to statutory exceptions.

As a special instrument of state takeover control, German foreign trade regulations (the Foreign Trade and Payments Act, *Außenwirtschaftsgesetz – AWG and the Außen-wirtschaftsverordnung* – AWV), which were repeatedly and, most recently, extensively amended, give the Federal Ministry for Economic Affairs and Climate Action (BMWK) powers of examination and intervention in exceptional cases with regard to transactions on the basis of which non-European investors gain a decisive influence on companies domiciled in Germany. Whether the investors are sovereign wealth funds or private companies is irrelevant, as is their legal form.

Embargoes and sanctions enacted by the European Union, Germany or 3rd countries, have to be taken into consideration and may lead to limitations on inflow or outflow of capital to and from Germany.

Also, see chapter dealing with foreign direct investment restrictions, controls or requirements.

28. Are there any significant transfer taxes, stamp duties, etc. to be taken into consideration?

Real estate transfer tax (RETT) is levied on transfers of German real estate and, under certain statutory conditions, can also be triggered by share transfers or changes in the partner/shareholder base of real-estate-holding entities (so-called 'share deal'/'change of ownership' RETT rules). Rates depend on the federal state and currently range from 3.5% to 6.5%. The applicable participation thresholds and monitoring periods for share deal structures are subject to political debate and possible reform and should be verified for the

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relevant transaction date.

Stamp duty: There is no stamp duty.

29. Are there any public takeover rules?

Yes. The relevant rules are set out in the German Takeover Act (*Wertpapiererwerbs- und Übernahmegesetz, WpÜG*). The German Takeover Act entered into force on 1 January 2002 and has repeatedly been amended ever since, in particular, in view of the (implementation of the) EU Takeover Directive (in 2006). In terms of scope, the Act applies to all public bids targeted at companies in the relevant legal forms (AG, SE, KGaA) having its registered office in Germany or in another member state, provided that the shares of the target are admitted for trading on an organized market in Germany. Content-wise, the Takeover Act does not only regulate takeover bids but also regulates other publicly made bids by means of which the bidder seeks to acquire only part of the shares or intends to consolidate an already existing controlling position. It also applies to, by way of example, convertible bonds.

30. Is there a merger control regime and is it mandatory / how does it broadly work?

There is a merger control regime which is mandatory to the extent the prerequisites for its applicability are fulfilled. The relevant regulations are found in Sections 35 to 43 of the German Act against Restraints on Competition (*Gesetz gegen Wettbew-erbsbeschränkungen*, GWB). The responsible authority is the German Federal Cartel Office (*Bundeskartellamt*). Events triggering the relevant rules set for being considered "concentrations" in the sense and meaning of Section 37 GWB include:

- the acquisition of (direct or indirect) control over another undertaking or parts of it by one or several undertakings;
- the acquisition of all or substantial part of the assets of another undertaking;
- the acquisition of shares in a company's capital or voting rights resulting in an overall shareholding reaching or exceeding 25% or 50% respectively;
- any other combination of undertakings enabling one or several undertakings to directly or indirectly exert a competitively significant influence on another undertaking.

The German concept of control is very similar to the concept of control pursuant to the EU merger control regime.

A concentration (as defined hereinabove) is subject to German merger control, if the prerequisites set out in either of the following alternative provisions are fulfilled:

- combined worldwide turnover of all undertakings participating in the concentration in the last completed financial year preceding the transaction exceeds EUR 500 mil-lion + the turnover of at least one undertaking participating in the concentration exceeds EUR 50 million in Germany + the turnover of at least one other undertaking participating in the concentration exceeds EUR 17,5 million in Germany, or
- combined worldwide turnover of all undertakings participating in the concentration in the last completed financial year preceding the transaction exceeds EUR 500 mil-lion + the turnover of at least one undertaking participating in the concentration exceeds EUR 50 million in Germany + the amount of the consideration payable for the Transaction exceeds EUR 400 million + the undertaking to be acquired is significantly active in Germany.

Further details cannot be described here.

31. Is there an obligation to negotiate in good faith?

There is no general, standalone statutory obligation to negotiate and conclude contracts 'in good faith' in the sense of an enforceable duty to reach agreement. However, German law imposes duties of good faith and pre-contractual duties (in particular protection and disclosure duties) in the course of negotiations. Breach of such duties can lead to pre-contractual liability (culpa in contrahendo), depending on the circumstances.

32. What protections do employees benefit from when their employer is being acquired, for example, are there employee and / or employee representatives' information and consultation or co-determination obligations, and what process must be followed? Do these obligations differ depending on whether an asset or share deal is undertaken?

Asset Deal:

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A provision of particular importance in German law, which must be observed in case of restructuring and acquisitions is Section 613a German Civil Code. This provision applies to transfers of businesses or parts thereof.

If such an economic unit is transferred from a company (seller) to another company (purchaser), Section 613a German Civil Code stipulates that the employment relation-ships of the affected employees are automatically, i.e. by operation of law, transferred to the purchaser. Any agreement which aims to obstruct this legal consequence, is ineffective.

Furthermore, it should be noted that purchaser and seller must inform the employees who are affected by the transfer of business, about the reason of the transfer and other relevant circumstances (e.g. point of time, legal consequences etc.) in accordance with Section 613a para. 5 German Civil Code in due form prior to the transfer. Depending on the circumstances, information and consultation obligations vis-à-vis a works council may apply and, in the case of operational changes, reconciliation of interests and social plan negotiations may be required.

Generally, the employees can object to the transfer of their employment relationship in writing within a period of one month; this period starts upon information about the transfer. If they object, employment with the seller continues. As the employees can also object later if they are not or not properly informed about the transfer, it is important to ensure proper information in order to avoid an unpleasant surprise by objecting employees at a later date.

Share Deal:

In a pure share deal, the employing entity remains the same and employment relation-ships generally continue unchanged; Section 613a BGB is typically not triggered solely by a change of shareholders. However, general employee protection rules and, where applicable, employee representation rights (e.g., works council information/consultation) remain relevant, in particular if post-acquisition restructuring measures are implement-ed.

33. Please detail any foreign direct investment restrictions, controls or requirements? For example, please detail any limitations, notifications and / or approvals required for corporate acquisitions.

In order to avoid security risks or to prevent a drain of know-how deemed particularly sensitive, the Federal Ministry for Economic Affairs and Climate Protection (*Bundesminis-terium für Wirtschaft und Klimaschutz*, BMWK) may review the acquisition of domestic companies by foreign buyers. Depending on the relevant sector the domestic company operates in and the amount of shares/ assets to be purchased, acquisitions by any foreign acquirer or by non-EU/non-EFTA acquirers can be subject to such a review.

The basis for these reviews are the Foreign Trade and Payments Act (AWG) and the Foreign Trade and Payments Ordinance (AWV). The regulations allow the BMWK to assess whether there will be (i) a likely effect on the public order or security of the Federal Re-public of Germany, of another Member State of the European Union or in relation to projects or programs of Union interest; or (ii) whether essential security interests of the Federal Republic of Germany might likely be impaired. The catalogue of sectors subject to a sector-specific or a cross-sectoral review procedure has been regularly extended in the past and is mainly divided into defence-related sectors in case of the former, and a broad range of sectors that are considered particularly critical in case of the latter.

Depending on the relevant sector, the threshold of voting rights/assets to be acquired, which triggers a review procedure, is 10% or 20%. In the case of an ex-officio review of acquisitions of domestic companies operating in any other sector, the relevant threshold is 25%.

Non-compliance may result in significant consequences, including conditions, prohibition, and administrative and, in certain cases, criminal sanctions. Early assessment and, where appropriate, filing planning are therefore essential.

34. Does your jurisdiction have any exchange control requirements?

Germany does not generally impose exchange controls; see question 27 for the foreign trade/payments framework and related reporting and screening regimes.

35. What are the most common ways to wind up / liquidate / dissolve an entity in your jurisdiction? Please provide a brief explanation of the process.

German practice distinguishes, broadly, between solvent

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liquidation (voluntary winding-up) and insolvency proceedings.

Insolvency proceedings may be opened in the event of, inter alia, illiquidity or over-indebtedness, and are governed by the German Insolvency Code (*Insolvenzordnung*).

A voluntary/solvent liquidation is initiated by the company or its shareholder(s) and is designed for companies that have ceased or want to cease their business activities and where the shareholder(s) believe that it makes no sense to keep an entity alive that is not doing business anymore or to keep the company as dormant or shelf company. The intention to liquidate the company can also be based on a (global) post-acquisition/merger restructuring/integration (e.g. entity reduction sale/transfer of the business followed by a company liquidation).

In the event of a voluntary liquidation, the shareholders of a company (AG, GmbH, KG etc.) resolve to close down/wind-up its operations in their own discretion. In principle, a liquidation proceeds in a similar way for all types of companies – namely, in three phases: dissolution, liquidation proceedings and termination/deletion of the company. First, the dissolution/liquidation of the company has to be resolved by the shareholders. The resolution on the dissolution/liquidation of a company has to be registered with the commercial register. The termination of the company is not yet complete with the dissolution. Rather, the liquidation phase follows the resolution to liquidate the company, which essentially pursues the purpose of satisfying creditors' claims, distributing remaining assets among shareholders and deleting the company from the commercial register. Once the necessary liquidation measures have been completed, the liquidation is terminated. A final account must now be drawn up, and the termination of the liquidation can be filed for registration with the commercial register. With the deletion from the commercial register, the company ceases to exist. How exactly a liquidation is carried out depends very much on the legal form of the company. During the liquidation period, the company in the legal form of a GmbH or AG is no longer represented by managing directors/members of the board of directors but by liquidators, which are often the same individuals who acted as Managing Directors/members of the Management Board be-forehand. A partnership like a KG is represented by shareholders acting as liquidators. The liquidators are obliged to close-down/wind-up the company's business, collect all outstanding receivables and settle all claims of the company's creditors as well as trans-forming all assets of the company into cash by selling and transferring the business as a whole or of operable parts thereof on an asset-by-asset basis. All transactions that serve the liquidation may be carried out. The creditors of a corporation, like a GmbH or AG have to be given public notice about the closure of the company, including a call to creditors, so as to enable them to collect their claims by respective publication of the liquidation with the German electronic Federal Gazette (*Bundesanzeiger)*. After all creditors' claims have been settled (including those of the fiscal authorities), any remaining as-sets/liquidation surplus are distributed to the shareholders. However, such distribution can take place at the earliest one year following the publication of the liquidation with the German Electronic Federal Gazette (restrictive year/one year waiting period). After distribution of the liquidation proceeds to the shareholders, the liquidators must file the termination of the liquidation and the deletion of the company with the commercial register. Tax matters must be cleared; in practice, the register court may require confirmation from the tax office prior to deletion. Finally, the company will be deleted from the commercial register and thus ceases to exist.

In any event, keeping in mind the one-year period mentioned above (restrictive year), the liquidation process will take at least 12 months and often longer, depending on the circumstances.

Under German law there is no fast-track liquidation process applicable. However, in case of a group of companies, another option would be to merge entities, i.e. merge the entity, that shall be dissolved into another group entity by means of which all assets and liabilities will be transferred to the absorbing entity by way of universal succession by operation of law upon registration of the merger with the commercial register. This might be an attractive option since the merger of subsidiaries is the quicker and smooth-er way to eliminate unwanted companies compared to their liquidation.

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