

or the last day of the calendar month. This notice period can be longer, depending on how long you have worked there. Your boss is still required to pay you during this notice period.

• **If you feel like you were unfairly fired – challenge it!**

If your boss did not meet all **3** conditions above, you can fight your termination in court. **You only have 3 WEEKS** from the time that your termination letter was delivered to you, so act quick. Do not sign any termination agreement (Aufhebungsvertrag)! Contact a lawyer asap and ask them about legal aid (to cover costs). Keep offering your labour, e.g. by sending emails to the company (“I want to work”, “I want shifts”), or even continue to show up to work. This will help your case in court. If you fight against an unfair dismissal in court, you may not get your job back, but you may be able to negotiate a settlement instead. Filing a suit may also help you get all the money that employers usually owe workers (unpaid holidays, overtime, bonus, etc.)

• **You are entitled to unemployment payments**

(Arbeitslosengeld - ALG): Depending on the reasons for your dismissal, and if you were working for at least **12** months out of the last **24** and paying into social security, you should be able to receive money from the state when you are unemployed. This is approximately **60%** of your daily wage, **67%** if you have children, and lasts one year. If you are dismissed, or even if you quit your job, apply right away to see what kind of payments you might be able to receive.

• **If you are out of working for a longer period, you can apply for jobseeker’s allowance:**

Hartz IV are payments from the government that you can receive if you are unemployed for a longer term (e.g. over **12** months and your ALG has run out). In some cases, EU citizens who have never worked in Germany before and non-EU citizens (depending on your residence permit) might be eligible, so if this is you, it is worth checking out! There are also other social benefits that don’t rely on your work history, such as housing benefits (Wohngeld) and social housing (Wohnberechtigungsschein - WBS) that you should look into.

IMPORTANT GERMAN LABOUR STATUTES

- The Civil Code (Bürgerliches Gesetzbuch: BGB) English
- The Works Constitution Act (Betriebsverfassungsgesetz: BetrVG) English
- The Act on Collective Bargaining Agreements (Tarifvertragsgesetz: TVG) English
- Protection Against Unjust Dismissals Act (Kündigungsschutzgesetz: KSchG) only German
- General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz: AGG) English
- Part-Time and Limited Term Employment Act (Teilzeit- und Befristungsgesetz: TzBfG) only German
- Continuation of Remuneration Act (Entgeltfortzahlungsgesetz: EFZG) only German
- Federal Paid Leave Act (Bundesurlaubsgesetz: BUrlG) only German
- Maternity Protection Act (Mutterschutzgesetz: MuSchG) only German
- Working Time Act (Arbeitszeitgesetz: ArbZG) only German
- Federal Act on Payment of Child Raising Benefit and Child Raising Leave (Bundeselterngeld- und Elternzeitgesetz) only German
- Labor Court Act (Arbeitsgerichtsgesetz: ArbGG) only German
- Prostitution Act (Prostitutionsgesetz: ProstG) (only German) & Prostitutes Protection Act (Prostituiertenschutzgesetz: ProstSchG) only German

DEMAND YOUR RIGHTS, AND MORE! JOIN FAU BERLIN

The rights listed here are the minimum that an employer must give you, to be acting within the law. But workers deserve more than just the basics. If you want a better workplace, improved conditions, more equality – you have to organise. This means joining with other workers and making demands from your bosses.

That’s what unions are for. FAU stands for Free Workers’ Union. Together, we can stand up to the bosses and fight for equality. All workers have rights & FAU accepts all workers: Teachers, health workers, cooks, cleaners, artists, sex workers, bike delivery workers, gig workers, mini-jobbers, interns, undocumented workers. No matter where you work, you can organise.

Contact the Foreign Workers’ Section at faub-aus@fau.org or go to <https://berlin.fau.org/become-a-member> to join now!

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LABOUR RIGHTS IN GERMANY

AN OVERVIEW FOR NON-NATIVE GERMAN SPEAKERS WORKING IN GERMANY

FAU 



INTRODUCTION

You have rights as a worker in Germany. But as a foreigner, you may not know your rights, or what you can do to defend them. This makes it easy for your employer to exploit you.

This pamphlet covers some basic labour rights that every worker should know when working in Germany. This list does not cover every detail. Labour law in Germany is complex, but you are not alone! To understand your rights better and how you can fight for them, join FAU. We work together to fight workplace struggles, when our bosses might be acting unfairly (or illegally) and share ideas on what we can do about it. Together, we can stand up to the bosses and fight for equality in the workplace.



BEFORE YOU START YOUR JOB

- **You have a right to a written contract:** This should include all the important things about the work relationship, such as starting date of employment, length (if fixed term), description of work, salary (including overtime pay, vacation pay, bonuses), working hours and times, length of annual leave (vacation) at minimum. Your boss must give you a written contract within one month of starting work. It is better to get this before you start. If you do not have a written contract, a verbal contract is equally valid, but difficult to prove. Fixed-term contracts must be agreed in writing; verbal contracts are unlimited by default.

- **There is a minimum wage in Germany:** This is the lowest that your boss is allowed to pay you per hour. In 2022, from Jan 1st until June 30 the minimum wage is €9,82, then €10.45 on 1 July, and then to €12 on 1 October.

- **You have a right to sick leave, vacation days, social security, and other rights – even on a mini-job, or part-time job:** Sick leave is when you still get paid even when you are sick (get a doctor's note!). Vacation days are days you can use for vacation that are fully paid (a minimum 4 paid weeks per calendar year if you are full-time. You can split it in workdays, but you have a right to a 2 week block. If you are part-time or mini-job it is less - That means 24 d by 6-day-week, 20 d by 5-day-week, 12 d by 3-day-week) Social security means that you have access to things like health insurance, long-term nursing care, pension, unemployment insurance when you need them, and the cost is shared between you and your employer. All of this should be included in your employment contract, regardless if you are full-time, part-time, or on a mini-job.

- **“Zero hour” contracts are illegal:** A zero hour contract is when your boss only calls you when there is work, and only pays you for this time. This is illegal. You must have the number of hours you will work per week stated on your contract. If the working time is not stated, the boss is required to pay you at least 20 hours per week. Hourly contracts are not permitted.

AT YOUR JOB

- **There is a limit to how long (and when) you can work, and you have a right to breaks:** In general, the legal working time is 8 hours per day, to a maximum of 48 hours per week, and you have a right to a 30 minute break after 6 hours of continuous work. There are some exceptions to this, and FAU can help you figure it out. But it's important to know - you have rights that limit how much you can work and right to breaks.

- **You have the right to know your schedule at least 4 days in advance, and to work the number of hours agreed in your contract:** You can request a duty roster in advance, and one shift should always include at least three consecutive hours. Your total hours should always add up to those agreed in your contract. Even if your boss doesn't need you for all the hours stated in your contract, they are obliged to pay you for them.

- **If your payment is delayed for a long period, you are allowed to stop work until payment is given:** Legally, all work must be paid! Write down all your hours, date, start/end times, and breaks. If your boss does not pay you, these notes will be very important, for example, if you take your boss to court. You can also stop working until you get paid (when you give your boss notice), and they will also need to pay you for this time. If you plan to exercise your right to stop working until you are paid (Zurückbehaltungsrecht), you must inform your boss in writing beforehand. Send them a letter specifying exactly how much they owe you and for what time periods. State what they need to do before you will return to work. If you plan to do this with your co-workers, everyone will have to send in their own letter.

- **If you get into an accident at work, or on your way to or from work, you are entitled to your wages and additional benefits if you cannot work:** If you get into an accident directly related your work activity or on your commute to and from work, immediately notify your employer and an 'accident insurance doctor' (Durchgangsarzt). Your employer has to cover you with statutory accident insurance (Berufsgenossenschaft) and you have to inform this doctor of which insurance it is. If you are unable to work, you should continue to receive your salary (Lohnfortzahlung) from your employer or if you are also unfit for work, you will receive injury benefits (Verletztengeld).

- **Unequal treatment because of race or ethnic origin, gender, religion or secular belief, disability, age or sexual identity is against the law:** The General Equal Treatment Act (AGG) prohibits discrimination of any kind by your employer and colleagues, especially when it comes to hiring, employment and working conditions, promotions, pay, and dismissal. In particular, some groups, like people with disabilities and pregnant women, have special protections against dismissal.

IF YOU LEAVE YOUR JOB, OR GET FIRED

- **In the first 6 months, you can quit your job with only 2 weeks notice (but your boss can also fire you with 2 weeks notice without reason):** Your contract may specify a trial period (“Probezeit”) for both you and your employer. During this trial period, you only need to give your boss two weeks notice if you want to quit your job. The same applies to your boss - they can fire you with only two weeks notice during your trial period. They do not have to state a reason. Not all contracts have a trial period, and your trial period may not be longer than six months. After that, the notice period is four weeks (or longer, depending on how long you have worked there), and the boss MUST provide valid reasons in writing (more below).

- **You cannot be thrown out over night!** If your boss thinks you are doing something wrong at your job, they must give you a warning. This is a written description of what they think you did that violates your contract and asking you not to repeat it. Only in severe cases can a boss fire you without repeated warnings.

- **The boss cannot just fire you for any reason. They must have valid reasons and give you enough warning in advance:**

In order to fire you, your boss needs:

- 1) Valid reasons - they must clearly demonstrate (in detail) how you violated your contract or state the operational reason (e.g. shut down of the business) for why they must dismiss you;
- 2) This must be in writing, and signed;
- 3) Within the appropriate notice period. This means that your boss must give you at least four weeks notice that your job is ending, counting back from the 15th