

Employee Representation

Works Councils

A works council may be established in companies with five or more employees.

Works councils are in-house committees representing the interests of the employees within a company. Their activities range from information and non-binding consultation rights to exercising co-determination rights in organizational and social affairs. However, the works council is generally prohibited from becoming involved in corporate governance.

Rights regarding the formation of works councils are governed by the German Works Council Constitution Act (*Betriebsverfassungsgesetz*). Accordingly, works councils can be formed by the employees through election (no quorum required). Works council members are elected for four years by the employees in direct and secret elections. Candidates do not have to be union members.

Functions and Rights of Works Councils

Works councils have informative and advisory rights relating to company internal policy and organization. Specifically, they can negotiate rules pertaining to organizational and social issues, and must be consulted regarding specific personnel decisions. The employer and works council can negotiate rules on matters such as:

- end and beginning of daily working hours (not the duration as such)
- vacation schedules
- internal behavioral rules
- safety issues (accident prevention)
- surveillance installations
- internal social facilities (e.g. canteens)
- general company wage structures (but not individual salaries)

Employee Representation on the Supervisory Board

Stock corporations (AG) must always install a supervisory board. For Limited Liability Companies (GmbH) the installation of a supervisory board is mandatory only if the company has more than 500 employees. Whereas in smaller corporations the supervisory board can in principle be made up of representatives from the shareholder side only, large corporations with more than 500 employees must have representatives from both employers/ shareholders and employees on their supervisory board (at least 1/3 of representatives must be employees).



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