# DIADSE – DIALOGUE FOR ADVANCING SOCIAL EUROPE
## Country report: Germany

**Authors**

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## Abstract

This report presents the findings from research carried out in the framework of the international project 'DIADSE - Dialogue for Advancing Social Europe'. The report aims to shed light on the developments in Germany with regard to social dialogue and labour law reforms in the period of 2008-2015, with an emphasis on the effects of the socio-economic adjustments undertaken in this period and the greater or lesser involvement of social partners in designing and implementing the reforms. Using a mixed-method approach this report is based on various sources: available research literature, legislation, reports published by national authorities or independent bodies, and the most reliable and up-to-date quantitative data from official sources, such as Eurostat, the national statistical office in Germany and the WSI-Tarifarchiv. In addition, and to provide some in-depth views on the developments during this time, seven telephone interviews with 9 representatives from the social partners (8 representatives of the major workers' and employers' organizations and one with an external scientific expert) have been collected. The final report is divided in five sections staring with a description of the main reforms and an outline of the role of social partners throughout the period under study as well as evaluating the labour market effects of the reforms and the development of the social dialog in Germany over the last seven years.

*A short reflection on the situation of Germany before and at the beginning of the crisis*

To begin with, because of its strong export orientation, Germany's economy was more affected by the economic and financial crises in 2008/2009 than other European countries (the gross domestic product decreased by 6.5%). The reaction of the German labour market to this recession was - compared to other countries - relatively mild, and different in comparison to former recessions. This had largely to do with the fact that, in contrast to countries such as Ireland and the United States which faced a slump in domestic demand combined with a real estate crisis, Germany had to deal with a world demand shock that mostly affected economically strong firms (Rinne and Zimmermann 2011; Schneider and Gräf 2010). Moreover, various flexibility instruments at the firm level, combined with discretionary adjustments of the institutional framework by policy makers (i.e. enhancement of short-time work schemes), enabled firms to adjust their working hours during this crisis almost solely along the intensive margin by reducing hours per worker (Burda and Hunt 2011). But also numerous arrangements in conjunction with collective labour agreements (job security contracts, mutable working hours) as products of the social dialogue opened possible courses of action. This rather unusual reaction compared to previous recessions was often depicted in the media as the ‘German Miracle’.

This, however, has to be placed into the context of two interdependent aspects: the previous labour market reforms and other flexibility instruments. For instance, the future prospects of the German economy seemed to be extraordinarily bright, in early 2008. For more and more German regions full employment was a realistic perspective. German products like machinery, equipment, and automobiles were in high demand on the world market. After several years of wage restraint, real unit labour costs had experienced a substantial decline, especially in comparison to Germany’s main competitor countries. The main macroeconomic variables looked favourable: The budget consolidation was well under way, the inflation tamed, employment was rising and there was neither a sign of a stock market nor of a housing price bubble. The eruption of the world recession caught the German economy by surprise and at a time when the dominant theme of the economic policy debate was a shortage of skilled workers. In addition, before the crisis hit Germany, major labour market reforms fostering flexibility of workers and their integration into the labour market as well as loosening institutional restrictions were undertaken in the years 2003 to 2005 (*Hartz Reforms*). Although not all elements of the labour market reforms turned out to be well-designed, they were on their way to changing the German labour market for the better during the upswing years 2006 to 2008. Positive signals could be observed with respect to a decline of long-term unemployment, an improved matching process between labour demand and supply and the convergence process in East Germany regained momentum (Gartner and Klinger 2010).

With respect to further measures and instruments implemented when the economy went into recession, the Federal government not only allowed the stimulation of the decreased aggregate demand by passive automatic stabilizers (such as the unemployment aid system), but also pursued more controversially discussed active stabilization policy measures, such as two economic stimulus packages. The most important measures - apart from certain direct fiscal policy measures (e.g. car scrapping subsidies) - were a large amount of labour hoarding and the use of short-time work foremost by the large export-oriented manufacturing sector. The approach worked well because its use was based on expectations by employers of a short recession only that proved to be true. Many of the most affected companies correctly anticipated to have a fundamentally appropriate structure of their products to meet the future demand in global markets as well as within Europe and Germany (Paesler 2011). The extent of the German stimulus programs in the EU were among the largest in the EU, and empirical evidence showed the effectiveness of the 2009/2010 recovery packages in overcoming the crisis (e.g. Brügelmann 2011, p. 1). In addition, tripartite national social dialogue was one of the main responses to the financial crisis in Germany. This took place only at a consultative level. Nonetheless, the union involvement was considerable, particularly at the sectoral/subnational level (e.g. social dialogue response via sectoral agreements and not via a national pact, see Baccara and Heeb 2011). When the crisis hit the German labour market, the government invited the social partners to several meetings between 2008 and 2009 to find solutions. All of these consultations focused on protecting employment levels as a major shared concern. As Zagelmeyer (2010) notes, government, union and employer association representatives met to discuss the economic situation, the two stimulus packages and further measures. The purpose of those meetings was to build upon the expertise of unions and employer associations and to secure their support in implementing new measures. Lengthening entitlement periods for short-time work at the national level was, for example, complemented by collective agreement clauses (negotiated during the crisis) in the metal and electrical industry.

*Major findings*

Against this background, the findings of the report showed that it is important to distinguish between measures and instruments implemented to overcome the crisis and post-crisis measures which are not related to the experiences before. Besides the already mentioned stimulus packages, in particular the extension of short-time work schemes, the support for companies training their short-time workers during downtimes, and a reduction of employers' social security contributions in general and for short-time workers under certain circumstances had an impact on the course which the social partners chose in dealing with the crisis. In this context, it should however also be emphasised that not all labour law changes (in particular those after the crisis) can be seen in relation to or as an effect of the economic crisis (Vogel 2013).

To start with the crisis period, Bellman et al. (2014) pointed out that the German miracle has to be attributed to the interaction of several factors, which have also been confirmed through the findings in this report. First, Germany experienced favourable conditions prior to the crisis. As elaborated, when the crisis hit Germany in 2009 a high level of employment stability could be observed. This can only be understood in relation to efforts undertaken from the early 1990s onwards to flexibilize working time in Germany: almost half of Germany companies had already in the early 1990s introduced working time accounts (Gross and Schwarz 2009). Moreover, with the use of ‘opening clauses’, which has also be stressed by several interviewees, all industry-wide collective agreements have given the actors at firm-level the opportunities to reduce collectively agreed working time temporarily in order o avoid dismissals, with accompanying wage losses. These within-firm flexibilities allowed reasonable employment adjustments and the use of schemes such as short-time work, working time accounts and most opening clauses including company-level pacts for competitiveness and employment which cumulated into relative employment stability coupled with low labour productivity. Additionally, the Hartz reforms (2003-2005) restructured the labour market, thereby facilitating flexibility, and finally during the crisis, efficient government interventions (such as prolonging short-time working entitlement periods and introducing two rescue packages) set the right framework for social partner action and helped strengthen the German economy. It seems that part of the fast and effective German answer to the crisis can be attributed to these pre-established instruments. In this regard the BDA representatives underlined that, given the nature of the industrial relations in Germany; it would have been unlikely that Germany could have reacted so fast in the reduction of working time if not beforehand the instruments had been already implemented. This allowed the social partners to extend the existing range of instruments for implementing temporary working time reductions - in particular with respect to short-time work.

The reforms introduced after the crisis have to be seen independently from the experiences during the crisis. In this regard, the heavily discussed Minimum Wage Act and the related reforms can rather be seen as a result of a positive and supporting political, economic and societal climate rather than of the positive collaboration experiences during the crisis. The findings of the report confirm that the social partners have very strong and divergent attitudes when it comes for instance to the Minimum Wage Act which is considered as a ‘state intervention’. While the trade unions - although from the beginning supporters of the minimum wage but cautious regarding their autonomy - are now more concerned with how the minimum wage can be increased over the different sectors and branches and over time, the BDA and employers associations are very clear in their rejection and scepticism. Even though the negative forecasts have not come true so far, a common notion is that ‘it is too early' to draw conclusions, in particular due to the current good economic climate. There is a lot of doubt whether the minimum wage will hold a further crisis.

When it comes to the question about development of the industrial relations and the role of the social partners, the results show that overall the system is a strong one which can master a crisis. This can be attributed to the fact that on the one hand it offers room for conflicting interests with respect to wages and working conditions, while at the other hand strong collaborations are possible when required by the circumstances. Vogel (2013) concluded that social partners during the crisis have successfully managed to mitigate the effects of the crisis. The stabilization of the employment level, particularly in the most crisis-hit industries is mainly an effect of the cooperative, solution-seeking behavior of social partners at the establishment and sectoral levels. This achievement was also due to the relative flexibility of the German system of industrial relations. More specifically: the possibility to deviate from collectively agreed standards by means of opening clauses, and the wage restraint and concessions negotiated during collective bargaining rounds.

In this context, the interviewees have underlined that the common goal of overcoming the crisis and saving jobs as well as the right and adequate instruments at hand increased the willingness of the social partners to collaborate and to put major conflicts temporarily at rest. However, as expected after the crisis the old conflicts remerged and the relation between the social partners returned to pre-crisis conditions and conflicts even increased in some sectors and branches. Overall, the interviewees also repeatedly stressed are that developments in the industrial relations in Germany and in particular of the collective bargaining system can hardly be generalised. It is rather necessary to differentiate between sectors, industries and branches. In the framework of this report, however, it was not the aim to dig deeper into those details but to provide rather an overview and an evaluation of the major trends.