



Sustainable Economies Due diLigence: good EXamples and the role of social dialogue

COUNTRY BACKGROUND REPORT

GERMANY



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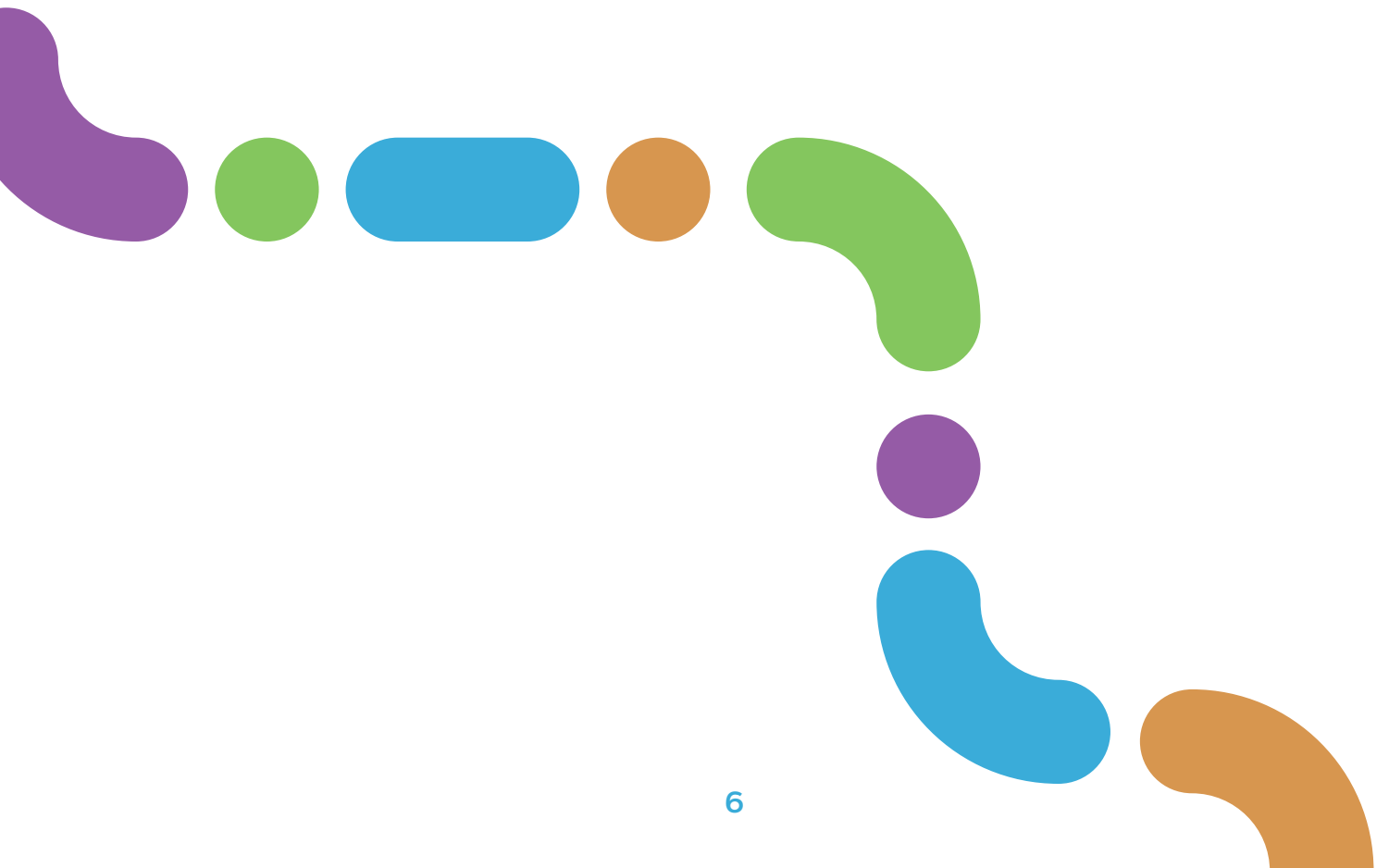
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01

National context



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1.1 CORPORATE SUSTAINABILITY REGULATORY FRAMEWORKS IN THE COUNTRY

1.1.1 INTRODUCTION

Until 2017, sustainability reporting by German companies was voluntary. Although companies were not legally obliged to publish sustainability reports, there were still good reasons to do so voluntarily. By voluntarily publishing a sustainability report, a company signals its transparency and increases its credibility with customers, investors and other interest groups. Companies that actively communicate their sustainability performance can improve their reputation. Voluntary reporting can help companies to differentiate themselves from competitors and strengthen their competitiveness. Sustainability efforts are an important factor for many employees when choosing their employer. There are now various reporting requirements in Germany.

1.1.2 SUPPLY CHAIN DUE DILIGENCE ACT

The German Supply Chain Due Diligence Act (*Gesetz über die unternehmerischen Sorgfalts-pflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten*), herein-after LkSG, initially came into force in 2023 for companies with 3,000 employees or more, and from 2024 applies to companies with over 1,000 employees in Germany. The law strengthens human rights and environmental protection in global supply chains. It obliges companies in Germany to respect human rights by implementing defined due diligence obligations. These obligations apply to their own business operations, to the actions of contractual partners and to

the actions of other (indirect) suppliers. This means that companies' responsibility no longer ends at their own factory gates, but extends along the entire supply chain.

Companies must first identify, assess and prioritise the risks in their supply chains. Based on the results, a policy statement is published and measures are taken to prevent or minimise violations of human rights and damage to the environment. The law sets out which preventive and remedial measures are necessary. Other obligations include the establishment of complaints channels for people in the supply chains, and regular reporting on supply chain management.

This benefits people in the supply chains, companies and also consumers. This is because the law provides them with legal certainty and a reliable basis for sustainable supply chain management with resilient procurement channels. The Supply Chain Act gives consumers the certainty that large companies in Germany in particular must now place an even stronger focus on fair production.

In Spring 2024 the German Federal Economics Minister proposed to suspend the Supply Chain Act for around two years. The background to this is that the act is already in force, but a comparable EU directive (the Corporate Sustainability Due Diligence Directive) still has to be transposed into national law. The EU member states now have a good two years to do so. One of the biggest differences between the German law and the EU directive is liability. German law excludes the possibility of companies being liable for breaches of due diligence, whereas the EU regulation allows this.

Meanwhile the German government has proposed to adopt the EU regulation, and a decision is expected for the end of the year. So the German regulatory frameworks will not revert to the 2017 position.

1.1.3 NON-FINANCIAL STATEMENT

Since 2017 around 500 large, capital market-oriented companies as well as banks and insurance companies in Germany have been obliged to prepare a so-called “non-financial statement”. In this declaration, they must set out the concepts, risks and performance indicators they pursue in relation to the environment, employee matters, social matters, human rights and corruption, if these are deemed to be material. The legal basis for this has so far been the European “Non-financial Reporting Directive (2014/95/EU) and its national implementation via the CSR Directive Implementation Act (*CSR-Richtlinie-Umsetzungsgesetz – CSR-RUG*). The CSR reporting obligation under this act applies to companies:

- ✦ that employ more than 500 people and are capital market-oriented;
- ✦ with a turnover over €40 million or a balance sheet over €20 million.

It also applies to banks, insurance companies and investment companies, regardless of whether they are listed on the stock exchange.

Targeted companies must disclose non-financial information on the following topics, among others, in their management report or a separate sustainability report:

- ✦ environmental, social and employee matters;
- ✦ respect for human rights;
- ✦ combating corruption and bribery;
- ✦ diversity plan for the composition of corporate management, supervisory bodies and supervisory board.

The act does not stipulate a rigid format for reporting. National, European or international sustainability reporting standards can be used for preparation. In Germany, the reporting standards of the Global Reporting Initiative (GRI) and the German Sustainability Code (*DNK Deutscher Nachhaltigkeitskodex*) are used in particular.

The German Sustainability Code (DNK) was developed in 2010 by the German Council for Sustainable Development (RNE) in a process of dialogue with representatives of politics, the capital market, the business community and civil society organisations. The first draft of the Global Reporting Initiative (GRI) was published in 1999. GRI’s voluntary sustainability reporting framework has been adopted by multinational organisations, governments, small and medium-sized enterprises (SMEs), NGOs and industry groups.

The age of these initiatives and methods shows that even before the introduction of mandatory reporting, interest in reporting was high for the reasons mentioned in the introduction. Cooperatives and the social economy, which developed an interest in reporting at an early stage, used these reporting methods.

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The authors of the study on CSR reporting between 2018 and 2019 came to the following conclusions: climate is the dominant environmental topic in the reports, whereas there is little quantitative information on other environmental topics in the years evaluated. Transparency about supply chains is only provided selectively and inconsistently. Factors of good reporting are not taken into account across the board. Suitable instruments and framework conditions can improve reporting.¹

1.1.4 IMPLEMENTATION OF THE CORPORATE SUSTAINABILITY REPORTING DIRECTIVE IN GERMANY

On 22 March 2024 the Federal Ministry of Justice published a draft bill on the implementation of the EU Corporate Sustainability Reporting Directive (CSRD). The draft bill provides for a 1:1 implementation of the European requirements for sustainability reporting.

The draft bill also provides for amendments to the Supply Chain Due Diligence Act (LkSG). It is important to note that the CSRD does not contain any corresponding statements on the replacement of reporting obligations. The possibility of replacing the reporting obligation under the LkSG with the CSRD, as provided for in the draft bill, should be elaborated in a more differentiated manner in order to prevent

strategies to weaken reporting on human rights-related aspects. A replacement for the reporting

obligations under the LkSG would only be justified if it can be ensured that all companies previously covered by the LkSG reporting must continue to carry out sustainability reporting that does not fall behind that of the LkSG in terms of quality, and if it can also be ensured that neither the implementation of the legal requirements of the LkSG nor the control function of the Federal Office of Economics and Export Control (henceforth BAFA) are restricted.

The draft bill has triggered many reactions among social and economic actors in the country.

- The umbrella organisation in the social economy and cooperatives adopted a position on it. The **Federal Association of Non-statutory Welfare (BAGFW)** states that in the area of non-profit social work, a significant number of organisations are affected by the regulations on sustainability reporting and will therefore have to expand their management. BAGFW also points out that the legislator does not differentiate between private commercial and non-profit companies and, as a result, both are equally affected by the obligations of the CSRD. The framework for the audit of sustainability indicators should also be, at least for non-profit organisations, beyond the circle of auditing organisations, and should include e.g. organisations accredited by the German Accreditation Body or certification organisations in order to create a broader range of auditing services.²

¹ Lautermann, Christian; Hoffmann, Esther; Young, Carla; Duscha, Markus; Kern, Walter; Steyrer, Theresa; Feddersen, Kaya (2021), Bundesumweltamt

² https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/DE/2024_CS RD_UmsG.html

Position papers from other organisations conclude that the auditing market is currently an oligopoly. This harbours the risk of mutual dependencies and price distortions. In addition, the implementation of the CSRD creates a high demand for additional auditors. In order to ensure a high level of auditing, it is therefore important to use the existing expertise and capacities of other service providers already involved in sustainability.

- The **Mittelstandsverbund – ZGV e.V.** represents the interests of around 230,000 small and medium-sized companies, which are organised into 300 or so groups from around 45 sectors including REWE, EDEKA and other cooperative groups. Its commentary on the draft bill pays particular attention to the treatment of affiliated cooperative groups, because the members of a cooperative group may be obliged to carry out an audit, which they would have to pay for even though they are independent businesses. In this context, it should be understood that these cooperatives are voluntary associations of medium-sized companies which aim to increase their profitability. They do this by centralising tasks with a high potential for synergy, while the members remain independent. Groups have mainly emerged from purchasing groups and therefore represent many independent SMEs in the retail sector. Buying groups have been taken up as a mode of cooperation across the entire value chain.³
- The **German Trade Union Confederation DGB** together with its sectoral member trade unions demands a comprehensive adoption of the requirements of the CSRD, in particular with regard to (i) the consideration of employee representatives as a target group for reporting as well as (ii) employee rights and employment and working conditions as relevant topics for sustainability reporting. With regard to the options offered to member states by the CSRD, the possibility of omitting reporting to protect “confidential information” should be reconsidered. The German Trade Union Confederation is also in favour of restricting the options for exemption from the reporting obligation.
- According to the German Trade Union Confederation, it is crucial that employee representatives are adequately involved in the sustainability reporting process. It is therefore important that the involvement processes are defined so as to be binding and are specified in the legal text, so that at least the requirements of the CSRD are adopted. The materiality analysis forms the core of sustainability reporting, and the obligation to involve trade unions and company employee representatives as important interest groups in this process must be mandatory for companies.

The DGB and its member unions also critically point out that the thresholds for determining the company size classes in Germany were drastically raised in the course of the implementation of the amended EU Accounting Directive. As a result, the number of

³ https://www.bmj.de/SharedDocs/Gesetzgebungsverfahren/DE/2024_CSRD_UmsG.html

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companies that have to report in accordance with the CSRD has decreased significantly. It also remains incomprehensible for trade unions why commercial partnerships and foundations with unlimited liability are still not included. This privileged treatment should, according to trade unions, also be clearly rejected from a competition policy perspective. There is no objectively justifiable reason why, for example, the CO₂ emissions of a limited partnership (with natural persons as shareholders) or the possible obstruction of a works council election in a foundation company should be of less public interest than the corresponding behaviour of a stock corporation or larger limited liability company. The DGB therefore reiterates its call to extend the scope of sustainability reporting beyond the companies covered by the Accounting Directive to all larger companies, regardless of their legal form.

1.1.5 RANKING

IÖW and Future have been evaluating and characterising the reporting of German companies on their social and environmental challenges and activities since 1944⁴. Their ranking is one of the world's first and most comprehensive criteria-based evaluations of reports in which companies present their ecological and social activities and performance on a voluntary basis. The ranking of sustainability reports is independent and is carried out with the support of the Federal Ministry of Labour and Social Affairs. The 11th edition of the IÖW and

Future sustainability report ranking took place in

4 Further information on the ranking of sustainability reports and an overview of the results of previous rankings: www.ranking-nachhaltigkeitsberichte.de

2021. The proven quality features continue to apply: independence of the evaluators, transparency of the evaluation criteria and procedures, involvement of stakeholders, comprehensive best-practice-oriented approach as well as scientific expertise and many years of experience.

The ranking of the IÖW and Future 2021 sustainability reports

In the 2021 Sustainability Report Ranking, the Institute for Ecological Economy Research (IÖW) and the future business association analysed the sustainability reports of 62 large companies and 39 small and medium-sized enterprises (SMEs) on the basis of a comprehensive set of criteria. REWE group and DZ Bank group are two cooperatives in the list.⁵

1.2 SOCIAL DIALOGUE

1.2.1 COLLECTIVE BARGAINING

Sectoral collective bargaining represents the dominant level of collective bargaining in Germany. Sectoral bargaining usually takes place at the level of the territory in which the employer organisation is organised, whilst core elements of the agreements do not differ much from region to region.

5 IÖW/future (Hrsg., 2021): Anforderungen an die Nachhaltigkeitsberichterstattung. Kriterien und Bewertungsmethode im Ranking der Nachhaltigkeitsberichte 2021 von IÖW und future, Berlin/Münster

Agreements cover members of employers' organisations and all trade union members, and are usually extended by the employers to all workers. Yet, employers' organisations can offer membership free of the duty to apply its collective agreements.

Extension mechanisms were amended in 2015 as the previous rules based on a minimum coverage of the agreement (50% of the sectoral employees) proved ineffective along with the declining trends in membership rates. Extension shall now be granted by courts of justice if 'of public interest'.

Social partners are the trade unions on the employees' side and the employers' associations and the state on the employers' side or, in the case of company collective agreements (e.g. VW), the individual employer. These trade unions/associations are based on the freedom of association, which is guaranteed in the German constitution. The guarantee of freedom of association also includes the right of collective bargaining partners to conclude collective agreements within the framework of the Collective Agreement Act (*Tarifvertragsgesetz*) and to take industrial action (strike, lockout).

1.2.2 INDUSTRIAL CONSTITUTION ACT

According to the industrial constitution act (*Betriebsverfassungsgesetz – BetrVG*), which operates at the enterprise or workplace level, the elected members of the works council (*Betriebsrat*) represent the interests of all employees. This is not a trade union body. However, cooperation between works councils and trade unions represented in a given

workplace is expressly ensured by law. Works councils can be formed in all private-sector companies with at least five employees. In principle, all employees are entitled to a vote, with the exception of senior employees and members of the management bodies. Senior executives and senior management are not represented in the works council. All employees who have been employed by the company for at least six months can put themselves up for election. The trade unions represented in the company can submit their own nominations, although lists of candidates who are independent of the trade unions can also be submitted. The number of works council members depends on the size of the company. In companies with more than 200 employees, one member of the works council can be entirely released from his or her work duties to perform works council tasks. Works councils have a number of rights related to information (for example, hiring new employees), consultation (for example, in the case of new technology) and codetermination (for example, beginning and end of working time). The works council can oppose dismissals, although ultimately they cannot prevent them. The works council is not entitled to conduct collective bargaining or call for strike action. It can only reach agreements that do not conflict with existing collective agreements between the trade unions and the employers' organisations at sectoral level. The establishment of works councils is not obligatory. In companies without works councils the trade unions do, however, have a right of initiative enabling them to instigate a procedure to bring a works council into being. The establishment of works councils in the German *Sozialwirtschaft* led by churches does not take place under the general German work council law,

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but under different legislation which secures fewer rights. So called tendency companies have their own regulations for work councils.

Only 10% of companies with five employees or more have a works council, although 45% of all employees work in such companies. In all the western German *Länder* the employees are represented by a works council in 90% of all large companies with more than 500 employees. The eastern *Länder* are not far behind (85%), according to an analysis of works council elections in 2010 commissioned by the Hans-Böckler-Stiftung. Around 77% of all works council members at that time were also members of a DGB trade union. Most of the other works council members did not belong to a trade union. Works council members enjoy far-reaching employment protection, which means that works councils have now become a de facto institutional basis for a trade union presence in companies. As a rule, however, trade unions are strongly represented only where the works councils are largely trade union dominated.

According to § 80 (3) BetrVG, the works council can use external advice, just like the employer can, if this is necessary for the completion of its tasks, i.e. whenever without this support the work council is not or is only insufficiently able to fulfil its tasks.

1.2.3 CODETERMINATION

Besides workplace codetermination in the form of works councils, there is also so-called 'enterprise codetermination'. Historically, this is based on the demand for enterprise democratisation, a key item on

the trade union agenda in the wake of the Nazi period. The codetermination in the coal and steel industries that came into force in 1951 was one of the most notable outcomes of this demand. As a consequence of this historical development concerning coal and steel codetermination, all corporations with more than 2,000 employees are subject to so-called parity-based codetermination: in other words, both shareholders and employees have the same number of representatives in the enterprise supervisory board. On the employees' side both enterprise and external trade union representatives can be elected, in a certain ratio. The chairman of the supervisory board may exercise a casting vote if neither the capital nor the employee sides has a majority. Finally, there is so-called 'one-third participation' in around 1,100 to 1,200 corporations with more than 500 employees. This means that one-third of the seats are reserved for employees' and trade union representatives.

1.2.4 SOCIAL DIALOGUE ON COOPERATE SUSTAINABILITY

The companies' supervisory boards are the most relevant bodies to deal with corporate sustainability reporting and implementing the Corporate Sustainability Due Diligence Directive. But works councils now also play a role, since their role was modified by the Supply Chain Due Diligence Act. From 1 January 2023, the Economic Committee in enterprises has a new right of information and consultation in section 106(3) no. 5 b BetrVG. According to Section 106 (3) BetrVG, economic matters relating to sustainability include:

- ✦ the investment programme
- ✦ manufacturing and working methods (e.g. CO2 reduction, circular economy)
- ✦ issues of operational environmental protection (no. 5a)
- ✦ issues of corporate due diligence in supply chains in accordance with the Supply Chain Due Diligence Act (no. 5b) (e.g. procedures for the assessment of indirect suppliers)
- ✦ restructuring projects
- ✦ changes to the company's purpose or organisation

1.3 LARGE SOCIAL ECONOMY ORGANISATION AND COOPERATIVES

Among the 10 biggest employers in Germany are two social economy organisations (Caritas and Diakonie) and two cooperatives (REWE and EDEKA). The common understanding of social economy (*Sozialwirtschaft*) in Germany excludes the majority of cooperatives. There is also no common regulatory framework that covers both social economy organisations and cooperatives. For this reason, we have to deal with each type of enterprise separately. There are only a few enterprises in which social economy and cooperative status overlap. There are a few cooperatives delivering social services like care and health services and on the other hand there are banks delivering financial services to Diakonie and Caritas organised in the legal form of a cooperative. The overlapping niche is growing due to the reform of the German cooperative law in 2006, which now allows cooperatives to have social objectives, and participative governance in social services. In addition, the debate about sustainability and common good might lead to a common regulatory framework in the future.

1.3.1 SOCIAL ECONOMY

The German social economy is in its majority not trans-sectoral. It is also called in German "*Freie Wohlfahrtspflege*" organised in the Federal Association of Non-statutory Welfare (*Bundesarbeitsgemeinschaft der Freien Wohlfahrtspflege – BAGFW*). It represents the entirety of all social assistance that is provided on a non-profit basis and in an organised form in Germany. Independent welfare work differs on the one hand from commercial – profit-oriented – services and on the other hand from those provided by public bodies.

The coexistence of public and independent welfare services in Germany creates a peculiar interaction in welfare provision. The umbrella organisations of the independent welfare sector are an important part of the welfare state because of the services they provide for the community. The social safety net would be torn apart if it were not for their work.

Around 1.9 million people are employed full-time in the institutions and services of the private non-profit welfare organisations; an estimated 3 million provide voluntary help in initiatives, aid organisations and self-help groups.

The welfare associations are federally structured, i.e. the branches and member organisations are predominantly legally independent. They have joined together in six umbrella organisations of independent welfare work. The non-statutory welfare associations are characterised by different ideological or religious motives and objectives. What they all have in common is that they are directly linked to the population's willingness to help and solidarity.

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Social economy enterprises outside the social service sector exist only in the form of social integration enterprises for people with mental and physical disabilities. But those are not large. As regards its legal form, the German social economy is deeply rooted in associations. However today more and more other legal forms like public company (AG) and private company (GmbH) are used, in general often combined with the fiscal status of *Gemeinnützigkeit*. This is a fiscal status which combines “non-profit” with public benefit, it is also linked to *mildtätig* charitable activities and allowed for a limited list of purposes.

In addition to cooperatives, the German social economy is also active in the financial sector. The *Bank für Sozialwirtschaft* (Bank for Social Economy) is legally organised as a public company (Aktiengesellschaft – AG) but 80% of the capital is controlled by the six umbrella organisations in the sector or by one of their members. It has total assets of €10 billion, and employs around 800 people.

1.3.2 COOPERATIVES

With 23.4 million members and more than 900,000 employees in 7,000 cooperatives, the cooperative sector plays an important role in the economy of Germany.⁶

Most of these cooperatives are regulated by the cooperative law. However, some of the largest cooperatives have organised themselves under company law, mainly to get better access to the

financial market. In a cooperative under cooperative law, at least three people join together voluntarily. The aim of the cooperative is to promote the economic, social or cultural interest of its members through joint business activity. Cooperatives exist in very different areas, such as finance, housing or agriculture.

The two biggest umbrella organisations are DGRV (cross-sectoral) and GdW (housing). The DGRV – *Deutscher Genossenschafts- and Raiffeisenverband e.V.* – is an umbrella organisation of the German regional and sectoral associations, except of the housing sector which is covered by GdW.

Another special feature of the cooperative system is the role of the cooperative auditing associations. These are organisations – usually registered associations – that carry out the legally required audits for cooperatives. Every cooperative is obliged to be a member of such an auditing association and to be audited by it. The audits to be carried out include, above all, the mandatory audit of the financial situation and the regularity of the management. Depending on the size of the cooperative, this audit must be carried out annually or biennially. Auditing associations also offer their member cooperatives advice on business management, legal and tax issues. Not all audit federations are members of the DGRV.

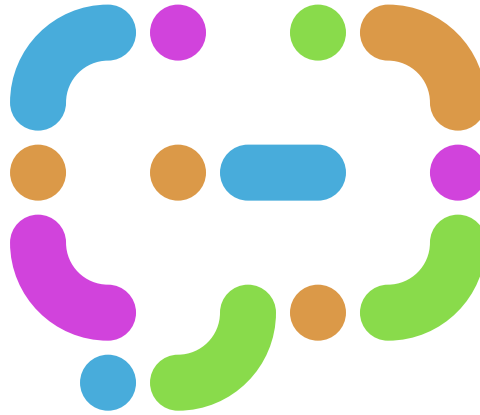
The annual audit of the cooperatives by the auditing association essentially covers the financial situation of the cooperative. However, compliance with the articles of association by the bodies of the cooperative, and compliance with member support through the operational performance of the cooperative’s business

⁶ https://www.dgrv.de/wp-content/uploads/2024/07/Zahlen_und_Fakten_2024_Englisch.pdf Editor: DGRV – Deutscher Genossenschafts- und Raiffeisenverband e.V., GdW Bundesverband deutscher Wohnungs- und Immobilienunternehmen e.V.

operations, are also audited. The sustainability of the business operations is not audited. However, if the articles of association of the cooperative provide for the promotion of the social interests of the members, compliance with this provision of the articles of association is also audited.

The auditing associations also play an important role in the registration of a cooperative in the register of cooperatives. For admission to this register, an auditing association must firstly certify that the cooperative is authorised to join the auditing association. Secondly, an expert opinion from the auditing association is required on the question of whether the interests of the members or creditors of the cooperative are jeopardised. In addition, the articles of association and a copy of the deed of appointment of the management board and supervisory board must be submitted to the registry court for the application for entry in the register of cooperatives. Notarisation of the application for entry in the register of cooperatives can also be carried out by means of video communication using the notarial online procedure.

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02

Overview of three sectors: financial services, wholesale and retail trade, agriculture



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2.1 FINANCIAL SERVICES

The German banking system is characterised by a three-pillar structure with private, public and cooperative banks.

Private banks are organised under private law and are therefore legally and economically independent. This category includes the major banks, i.e. Deutsche Bank, Postbank, Commerz-bank and UniCredit. They operate as public limited companies and are active both nationally and internationally. Due to their high business volume and nationwide distribution, they primarily serve particularly wealthy customers or those from large-scale industry, and are supervised by the ECB. Private banks also include private regional banks, branches of foreign banks, so-called direct banks without branches with exclusively digital or telephone services, as well as other credit banks and bankers.

The group of public-sector banks consists of the savings banks and their respective *Landesbanken*. They are organised in accordance with public commercial law and are owned by a public-law institution, for example a municipality, a district or a state. As a rule, they operate regionally in the area of their respective sponsor, and primarily serve the people there in the areas of savings, asset formation and credit supply. The *Landesbanken* assume a kind of central bank function and handle all transactions for which the savings banks themselves are too small. In other words, they handle securities transactions, international payment transactions and larger loans.

Credit institutions in the legal form of cooperatives emerged in the second half of the 19th century as self-help institutions with the aim of closing the gap in the supply of credit for capital-poor businesses in trade and agriculture. Today, cooperative banks offer the entire spectrum of banking transactions. Since 1973, they have also been allowed to grant loans to non-members (previously only to members). Credit cooperatives are subject to the provisions of the Cooperatives Act and the Banking Act. Whereas in the past their members were predominantly craftsmen, tradesmen and farmers, today their 16 million members comprise all kinds of workers, self-employed people and civil servants. A concentration movement to create larger banks has led to a uniform credit cooperative banking organisation.

In 2020, the 15 largest banks accounted for 55.1% (€5,072 billion) of total assets and 41.3% (226,789) of the employees of all banks in Germany. In the same year, the two largest credit institutions accounted for around 21% (€1,920 billion) of total assets and 21% (116,069) of employees of all banks in the country.

The digitalisation and automation of the banking world is changing work processes and will primarily make many manual banking activities superfluous in the future. The proportion of processes that are fully automated or can be carried out online by bank customers themselves will continue to increase as technology becomes more powerful. This applies to both the front office area of banks with direct customer contact and the back office area with highly standardised and automatable activities.

The consolidation process in the banking sector continued in 2020, mainly as a result of mergers in the cooperative sector. As a result, the number of German credit institutions fell by 403 (-21%) from 1,922 in 2011 to 1,519 in 2020. The number of bank branches fell even more sharply over ten years by 13,615 (-36%) from 37,675 in 2011 to 24,060 in 2020. Not quite as sharp as the number of bank branches, but still very significant, the number of employees at banks in Germany fell by 103,674 (-16%) in ten years, from 652,950 in 2011 to 549,276 in 2020.

The three pillars of the German financial sector each has its own employer organisation. For the private banks, this is the *Arbeitgeberverband des privaten Bankgewerbes*, for the cooperative banks it is the *Arbeitgeberverband der Deutschen Volksbanken und Raiffeisen-banken* and almost all savings banks (*Sparkassen*) in Germany are members of a municipal employers' association and therefore belong to the collective bargaining sector of public companies. In terms of trade unions, the majority of employees in the financial sector are represented by Verdi, the service industry trade union, the *Deutscher Gewerkschaftsbund* (DGB) and the *Deutsche Bankangestellten-Verband* (DBV). Verdi dominates in the *Sparkassen* pillar and the DBV in the cooperative banking sector.

2.1.1 THE COOPERATIVE BANKING SECTOR

The huge number of members of cooperatives in Germany is mainly due to the numerous (737) cooperative banks with total assets of €1,175 billion. The cooperative banks form together with financial institutes (investment operations, insurance and other

specialised financial institutes) a so called cooperative group under the umbrella of the *Bundesverband der Deutschen Volksbanken und Raiffeisenbanken e.V.* (BVR).

The BVR also has a guarantee scheme for the cooperative banks and has an annual consolidated balance sheet of all the member banks and institutes. The 10 largest cooperative banks are the following:⁷

1. Deutsche Apotheker- und Ärztebank eG, Düsseldorf
2. Berliner Volksbank eG, Berlin
3. BBBank eG, Karlsruhe
4. Frankfurter Volksbank Rhein/Main eG, Frankfurt a.M.
5. Volksbank Darmstadt Mainz eG, Mainz
6. Sparda-Bank Baden-Württemberg eG, Stuttgart
7. Sparda-Bank West eG, Düsseldorf
8. Volksbank eG, Villingen-Schwenningen
9. meine Volksbank Raiffeisenbank eG, Rosenheim
10. Volksbank pur eG, Karlsruhe

A typical example of a large cooperative bank is the Frankfurter Volksbank, which serves the Main region, central Hesse and Offenburg. It is the fourth largest cooperative bank in Germany, and after the Volksbank in Berlin the biggest Volksbank in terms of total assets. Around 1,522 employees work in the bank and the cooperative has around 245,618 members and total assets of €10,181 billion.

⁷ BVR website

Country background report: GERMANY

2.2 RETAIL AND WHOLESALE

The wholesale and retail sector tends to be quite broad, with a €2.52 trillion turnover in retail, 6.4 million employees in retail and 537,521 companies. Around one third of companies and employees are in the wholesale sector and two-thirds in the retail sector.⁸

The food industry is a crucial component of the sector. The German food retail sector not only plays a special role in the food chain between the food industry and consumers, but is also the highest-turnover and most labour-intensive segment of the German retail sector. It is therefore undoubtedly of great economic importance (*Handelsverband Deutschland, Zahlenspiegel 2024*). However, this should not obscure the fact that some developments in the food retail sector give cause for concern.

Employers in the wholesale sector are represented by the *Bundesverband Großhandel, Außenhandel, Dienstleistungen e.V.* and employers in the retail sector by the *Handelsverband Deutschland – HDE*. The employees are represented by the service trade union Verdi.

A trend towards increasing concentration of market power at the expense of food producers and consumers can be seen. In addition, the German food market is saturated and market growth in the coming years is likely to be in line with the inflation rate at best. In such a market environment, market players can only gain market share by squeezing out

and taking over competitors. Takeovers such as that of the discount chain Plus by EDEKA in 2010 or that of Kaiser's Tengelmann by EDEKA this year, which was initially approved by ministerial decree and then halted by the Düsseldorf Higher Regional Court, are examples of this.

It is interesting to note in this context that the mergers and acquisitions are being driven in particular by the REWE and EDEKA retail cooperatives.

This seemingly unstoppable development of the retail market illustrates the extent of the strategic employment risks facing the approximately 1 million employees in the food retail sector. There is a danger that food retailers will at least partly carry out the fierce predatory competition on the backs of their employees. This is a cause for concern, as the level of part-time and precarious employment, which primarily affects female employees, is steadily increasing and large parts of the German food retail sector do not maintain a good social partnership.⁹

2.2.1 THE COOPERATIVE BANKING SECTOR

In the ranking of the sustainability reports mentioned earlier, the two cooperative groups REWE and EDEKA are from their turnover and employees the two biggest players in the German food retail sector.

The majority of employees in the cooperative sector work in small-scale industry commodity, wholesale and retail trade and services cooperatives (725,600).

⁸ Statistisches Bundesamt

⁹ Branchenmonitor Lebensmitteleinzelhandel, Hans-Böckler-Stiftung

These cooperatives are often connected in a multi-level network: regional cooperatives of entrepreneurs are often organised into nationwide or international central cooperatives. Well-known are the brand names EDEKA with 3,500 independent merchants and REWE with 3,700 supermarkets.

The so called 1,324 Raiffeisen markets have joined together with commodity businesses in rural areas to form a few large cooperatives, examples of which are Agravis Raiffeisen AG and Baywa AG.

Agravis employs around 6,600 people and has a turnover of €9.4 billion. Agravis Raiffeisen AG is a wholesale partner of the local primary cooperatives, which are responsible for business with farmers. In regions without primary cooperatives, subsidiaries of Agravis Raiffeisen AG supply farmers directly. Since 2004 it legally operates as a share company.

Meanwhile very often cooperatives are moving from the legal form of registered cooperative (eG) to capital-based legal forms like AG and GmbH. This is mainly due to the necessity to strengthen the equity of the operations.

An example of a large cooperative in wholesale and retail trade is the REWE group.

REWE employs 384,000 people and has a turnover of €84.8 billion, and is formed legally of a cooperative Rewe-Zentralfinanz eG and a share company Rewe-Zentral-Aktiengesellschaft.

Social and environmental sectoral challenges and their relation with corporate sustainability

The German food retail sector is an important industry whose market participants have been able to survive successfully for a long time in intense and mainly national competition. In view of the development forecasts, however, the strategic challenges will not diminish in the future. Companies in the food retail sector should therefore pursue ecological and social sustainability aspects much more strongly in addition to economic aspects. After all, in order to remain successful in the face of intense competition, it will be increasingly important to take into account and fulfil the interests of consumers and employees.¹⁰

2.3 AGRICULTURE WITH A FOCUS ON DAIRY PROCESSING

According to a structural survey by the Federal Office for Agriculture and Food in Germany (2018), 57% of companies in the dairy industry are corporations, 36% cooperatives and 7% partnerships. The number of corporations has risen sharply over the years. The dairies with the highest turnover are cooperative dairies such as DMK, Hochwald, Arla and FrieslandCampina.

The number of milk processing companies has fallen sharply in recent decades (2000: 273; 2015: 210), but has recently risen again (2019: 227) due to a greater diversification of the product portfolio.

¹⁰ https://www.mitbestimmung.de/assets/downloads/20170207_Branchenmonitor-Lebensmittelein.pdf
Branchenmonitor Lebensmittel, Hans-Böckler-Stiftung

Country background report: GERMANY

There are 227 milk processing companies in Germany with more than 20 employees. Even though the top 10 in the industry account for more than two-thirds of sales, the dairy industry as a whole is characterised by medium-sized companies.

After many years of job cuts, the number of employees subject to social security contributions in milk processing companies has risen significantly again between 2010 (around 40,000 employees) and 2019 (more than 46,700 employees). This is mainly due to a greater diversification of the product portfolio and an expansion of the export business. Around half of the milk processed in Germany is sold abroad. The largest sales market is the EU, in particular the Netherlands, Italy and France.

The milk processing industry accounts for 7.2% of employees in the food and beverage industry in Germany. Almost two-thirds of employees in the milk processing sector work in large companies with 250 or more employees. These companies generate 56.1% of the sector's turnover.

The employers in the dairy industry are organised in the *Milchindustrie-Verband e. V.* and the employees in the *Gewerkschaft Nahrung-Genuss-Gaststätten (NGG)*, the oldest trade union in Germany.

2.3.1 COOPERATIVES IN THE AGRICULTURAL SECTOR

The third important sector in which cooperatives are active is the agricultural sector. 507 of them are workers' cooperatives and 25% of the farmland in

the eastern federal states of Germany is farmed by these agricultural cooperatives. They are SMEs and are important economic player in east Germany. Winegrowers' cooperatives are also SMEs: one-third of the total German grape crop is processed into wine by winegrowers' cooperatives.

This means that farming cooperatives are SMEs and not large cooperatives. But large cooperatives are active in food processing and wholesale in rural areas and for farmers. 60% of the annual milk volume in Germany is processed into food by dairy cooperatives, a few of which are large cooperatives.

An example of a large dairy cooperative is DMK group. DMK Deutsches Milchkontor GmbH (DMK for short) is one of Germany's largest dairy companies. It was formed by the merger of the two cooperatively organised North German companies Humana Milchunion and Nordmilch, which were already Germany's largest milk processors. DMK group is legally a private limited company (GmbH) and has 6,637 employees and a turnover of €5.47 billion.

2.4 SOCIAL AND ENVIRONMENTAL SECTORAL CHALLENGES AND THEIR RELATION WITH CORPORATE SUSTAINABILITY

The position of the German Raiffeisen Federation DRV, representing cooperatives in the agricultural sector, is that it must be ensured that the companies affected are not burdened with an excessively high bureaucracy. This applies all the more as the member companies of the DRV member companies can be classified as small or medium sized enterprises in terms of their size. Appropriate relief must be created for them with regard to the reporting obligation.

A restriction of the sustainability reporting obligation may also be of great importance for companies that do not fall under the scope of this law due to their size or legal form. In practice, it is expected that these companies will, to a large extent, be contractually obliged to report in full or in part in accordance with the requirements of the CSRD via contractual partners along the value chain who are obliged to report.

For this reason, the DRV proposes lower reporting standards for companies in the supply chain.

Resources

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