

Rights and obligations in the employment relationship

When an employment contract is concluded, the employee and employer enter into a contractual relationship with corresponding rights and obligations. This is based on the regulations of the German Civil Code (BGB), the German Industrial Code (GewO) and the regulations of the collective labour agreement (TV-L).

Performance obligation - primary obligation of the contracting parties

Employees are obliged to perform their contractually agreed work carefully, properly and personally. The employer can determine the content of the work, place of work and working hours within the scope of his right to issue instructions. In doing so, the employer must give due consideration to the interests of both parties and comply with collective labour agreements and statutory requirements. For its part, the employer is obliged to pay the agreed remuneration on time, to implement the collectively agreed and statutory remuneration regulations and to pay taxes and social security contributions.

Duty of loyalty and care - secondary obligations of the contracting parties

Employees have a duty of loyalty. They must not harm the employer or their colleagues. For example, negative comments on social media can have consequences under labour law. Employees in the public sector are obliged to demonstrate their commitment to the basic democratic order through their entire behaviour. In addition, there is a duty of confidentiality that relates to official content. This applies beyond the end of the employment relationship. Sensitive information must therefore not be passed on via insecure digital communication channels, even in everyday working life. Other obligations relate to the handling of gifts and any secondary employment.

As a counterpart to the duty of loyalty, the employer has a duty of care, and is obliged to ensure the physical and psychological integrity of the employee. This includes respecting the employee's personal rights, in particular protection against discrimination and harassment as well as the protection of personal data. The employer is obliged to grant the employee annual leave in accordance with the collective agreement and statutory provisions. Furthermore, the employer must allow the employee to view the personnel file and issue a reference upon termination of the employment relationship.

Civil servants have a special public-law employment and loyalty relationship, which will be the subject of the next Mini Info.

For Further Reading:

Bürgerliches Gesetzbuch – BGB (German Civil Code), §§ 241, 242, §§611 ff.

<https://www.gesetze-im-internet.de/bgb/>

Gewerbeordnung – GewO (German Industrial Code), §106

<https://www.gesetze-im-internet.de/gewo/>

Tarifvertrag der Länder - TV-L (Collective Labour Agreement of the Federal States), §3

https://www.tdl-online.de/fileadmin/downloads/TV-L/TV-L_i.d.F._des_%C3%84TV_Nr._13_VT_Neu.pdf

Tarifvertrag für Ärztinnen und Ärzte - TV-Ä (Collective Agreement for Doctors), §3

https://www.tdl-online.de/fileadmin/downloads/TV-Aerzte/01_TV-Aerzte/TV-%C3%84rzte_i.d.F._des_%C3%84TV_Nr._9_VT_neu.pdf

Grundgesetz – GG (Basic Law of the Federal Republic of Germany)

<https://www.gesetze-im-internet.de/gg/>

Do you have any questions? Please feel free to contact us!

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