Qualitative post-test evaluation of ESENER: National overview report - GERMANY

European Risk Observatory
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1 Germany National Overview Report

1.1 National context

1.1.1 Section 1: Structure of the German economy

The Federal Republic of Germany is Europe's largest economy with a population of 81.8 million and a working population of almost 42 million (Destatis 2013). Germany is one of the six founding members of the European Union (EU). It is a member of the Schengen area and of the Eurozone. The export volume of Germany is by far the largest in the EU and the export rate greatly exceeds the average. The GDP per capita is €30,800 (compared to €28,300 for the Eurozone)\(^1\). However, there are still significant regional discrepancies in economic power and employment between the West German Länder and the East German Länder, even 22 years after German reunification.

Germany is still a heavily industrialised country, with the manufacturing industry making up a 26.2 per cent share of GDP in 2011\(^2\) (compared to EU average of 20%). This is followed by public services (17.8%) and trade, traffic, hospitality and catering services (15.9%), while the share of construction (4.5%) and agriculture (0.9%) are relatively small. In 2007-08, the German national economy was affected by the financial crisis; GDP dropped by -5.1 per cent in 2009, but recovered quickly and grew 4.2 per cent in 2010, and another 3.0 per cent in 2011.

Compared to other major European economies, the manufacturing sector remains strong not only in terms of its contribution to the GDP, but also in terms of employment (Eurostat 2011). However, working conditions within the sector have changed radically, particularly in relation to the continuous decline of heavy physical work, such as that within the formerly strong coal mining industry. Today the automotive, machinery and chemicals sectors contribute to Germany's leading export rates. Germany's transformation to a service-centred economy has been marked by a growth in personal and business services and a decline in government social services and public administration (Eurofound 2007)\(^3\). In 2010 about 73.6 per cent of all employees worked in the service sector, 24.4 per cent in manufacturing and construction and 2.0 per cent in Agriculture (Eurostat 2011).

Figure 1: Employment in Germany, by sector (2010)

Table 1: Employment in Germany, by sector (2008-2010) – absolute numbers, SUGA 2010

<table>
<thead>
<tr>
<th>Nace</th>
<th>Sector</th>
<th>1,000 workers 2008</th>
<th>1,000 workers 2009</th>
<th>1,000 workers 2010</th>
<th>+/- (%) 2008/09</th>
<th>+/- (%) 2009/10</th>
</tr>
</thead>
<tbody>
<tr>
<td>A, B</td>
<td>Agriculture, forestry and fishing</td>
<td>860</td>
<td>859</td>
<td>847</td>
<td>-0.1</td>
<td>-1.4</td>
</tr>
<tr>
<td>C, D, E</td>
<td>Production (excluding construction)</td>
<td>8,026</td>
<td>7,796</td>
<td>7,660</td>
<td>-2.9</td>
<td>-1.7</td>
</tr>
<tr>
<td>F</td>
<td>Construction</td>
<td>2,193</td>
<td>2,204</td>
<td>2,234</td>
<td>+0.5</td>
<td>+1.4</td>
</tr>
<tr>
<td>G, H, I</td>
<td>Trade, hospitality, food services and traffic</td>
<td>10,045</td>
<td>10,065</td>
<td>10,049</td>
<td>+0.2</td>
<td>-0.2</td>
</tr>
<tr>
<td>J, K</td>
<td>Information and communication, financial and insurance activities</td>
<td>7,010</td>
<td>6,954</td>
<td>7,120</td>
<td>-0.8</td>
<td>+2.4</td>
</tr>
<tr>
<td>L-Q</td>
<td>Public and private services</td>
<td>12,142</td>
<td>12,393</td>
<td>12,573</td>
<td>+2.1</td>
<td>+1.5</td>
</tr>
</tbody>
</table>

The German economy is known for its strong ‘Mittelstan’, a term which refers to the relatively large number of small and medium, family-run enterprises (SMEs). Many of them are competitive in the global marketplace. Numerically, SMEs form 99.3 per cent of Germany’s enterprises, accounting for 46.7 per cent of the national gross value added in 2010. In 2007, approximately 58.3 per cent of all employees worked in SMEs with fewer than 50 employees, compared to an EU average of 50 per cent.4

Unreported employment in Germany has been shrinking slightly. Current estimates suggest the informal sector generated €342.2 billion in 2011, equal to 13.3 per cent of the GNP.5

1.1.2 Section 2: Human Resources

In 2007 the unemployment rate was around eight per cent, but declined after 2008 to seven per cent (national standards), with no difference in terms of gender.6 Dependence on exports caused a downturn of the German economy above the European average during the recession (see above). Nevertheless, the unemployment rate only increased to 8.2 per cent in May 2009 (13.3% in East Germany and 6.9% in West Germany), corresponding to an increase of just 0.4 percentage points compared with the previous year. This moderate increase in unemployment was largely attributed to an extensive use of short-time working.7 In December 2012, the official unemployment rate issued by the Federal Agency for Employment was 6.7 per cent (Arbeitsagentur, 2013), equal to 5.2 per cent on ILO standards (Destatis, 2013).

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4 http://www.destatis.de/jetspeed/portal/cms/Sites/destatis/Internet/DE/Grafiken/UnternehmenGewerbeInsolvenzen/Fotografie/KMUAnteil.templatedt=renderLarge.psml
6 https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/Arbeitsmarkt/Arbeitsmarkt.html
During the last few years, reforms focused on deregulation of the labour market have led to the establishment of new and ‘atypical’ forms of employment. A growing number of employees are on fixed-term contracts - some 13 per cent in 2011. The number of self-employed people also grew, reaching 4.4 million in 2011.  

Temporary work is also growing continuously. Rapid growth was observed during the 1990s and 2000s, fostered by the easing of legislative regulations regarding temporary work. During the economic crisis, temporary workers were amongst the first to be dismissed. However, the sector
recovered quickly and reached an all-time high in 2012, with more than 900,000 workers employed by temporary work agencies.

Figure 4: Temporary work in Germany, Source: Arbeitsagentur 2013.

Full-time work was in decline between 1991 and 2006, but during the last few years has increased again. Germany has the second highest share of part-time employment in the 27 EU Member States (EU27). Part-time workers are predominantly female: 81 per cent are women and 46 per cent of all female employees work part time (compared to just 9.7% of male employees). If we put this in the context of the figures given in Table 1, traditionally ‘male’ sectors (such as mining and production) have been shrinking, while the service sector has been growing. This suggests that some male full-time work is gradually being replaced by female part-time work.

Figure 5: Employees – full time and part time, Destatis 2012
However, women are still under-represented in the labour market. Despite the fact that the share and the absolute number of women in work has been growing during the last few years, this development is mainly due to part-time work. The current number of women in full-time jobs (employees only) is still some ten per cent lower than it was 1991, at the time of German reunification.

Table 2: Employment in Germany by gender (2010), absolute numbers, SUGA 2010

<table>
<thead>
<tr>
<th>Nace</th>
<th>1000 workers 2008</th>
<th>1000 workers 2009</th>
<th>1000 workers 2010</th>
<th>+/- (% 2008/09)</th>
<th>+/- (% 2009/10)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-Q</td>
<td>All</td>
<td>40,276</td>
<td>40,271</td>
<td>40,483</td>
<td>-0.0</td>
</tr>
<tr>
<td>A-Q</td>
<td>Men</td>
<td>22,047</td>
<td>21,845</td>
<td>21,883</td>
<td>-0.9</td>
</tr>
<tr>
<td>A-Q</td>
<td>Women</td>
<td>18,228</td>
<td>18,426</td>
<td>18,601</td>
<td>+1.1</td>
</tr>
</tbody>
</table>

Migrant workers are growing in numbers in the German labour market. Many first generation migrant workers were affected by the coal and steel crisis, as they came as low-skilled workers who frequently did heavy physical work. Migrant workers continue to find themselves in less qualified jobs and face more difficult working conditions in terms of payment, social recognition and safety and health at work.

The German workforce is aging, along with the general population. The birth rate in Germany is amongst the lowest in Europe; estimations are between 1.4 and 1.6. Various labour market initiatives have sought to tackle the issue, often through mainstreaming instruments like age management for companies, workplace health promotion and occupational health management.

Figure 6: Age structure of working population (31.12.2011)

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9 Destatis 2012, Erwerbstätige nach Beschäftigungsumfang, table can be retrieved at: https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/Arbeitsmarkt/Erwerbstaeligkeit/Erwerbstaetigkeit.html
11 Destatis 2012, table can be retrieved at: https://www.destatis.de/DE/ZahlenFakten/GesamtwirtschaftUmwelt/Arbeitsmarkt/Erwerbstaeligkeit/Beschaeftigungsstatistik/Tabellen/Altersgruppen.html
1.1.3 Section 3: Overview of the public OSH Infrastructure

There are two specific national features of the German OSH infrastructure: a high degree of federalism and a dual system, shared between the state and the obligatory Statutory Accident Insurances. The division and share of functions and powers in OSH is a highly significant structural element of the German OSH infrastructure. This division requires extensive and well-developed mechanisms for collaboration and communication between the numerous institutions and parties involved. Additionally, the principle of social partnership is integrated into some of the subsystems; for example, sectoral or national employers’ associations and trade unions share power on the boards of Statutory Accident Insurances, with each party commanding 50 per cent of the votes (seats).

The Federal Republic of Germany consists of 16 states (‘Bundesländer’ or ‘Länder’). The constitution of the Federal Republic of Germany establishes a precise sharing of legislative powers between the Federal Government and the states. The states have a great deal of autonomy in many governmental areas. They enforce OSH legislation, but do not introduce such legislation; this is a task of the national government, the chamber of all 16 states (‘Bundesrat’) and the national parliament (‘Bundestag’).

The OSH legislative framework (like German legislation in general) is in conformity with the European directives implemented at the national level. The German national regulations and acts are complemented by statutory accident institutions’ accident prevention regulations. On a more detailed level, OSH topics are regulated by technical rules and standards that are applied on a voluntary basis.

The basic principles and measures for the employer and employees are formulated in the Occupational Safety and Health Act (Arbeitsschutzgesetz, ArbSchG), which, for the most part, transposes the European OSH framework directive 89/391/EEC. The legal basis for accident insurance and statutory accident insurance at work is book VII of the German Social Code – Accident Insurance (SGB VII). The legal basis for the activities of occupational physicians and OSH specialists is the Working Conditions Act (ASiG).

The German OSH legislation applies at national level and is issued by the National Ministry for Labour and Social Affairs. The Ministry is supported in all fields of OSH by the Federal Institute for Occupational Safety and Health (BAuA). Its role is to provide expert advice on policy and to perform research and development in different OSH fields, as well as developing model solutions and practical advice for enterprises.

However, the ‘Länder’ are responsible for the practical enforcement of all OSH-legislation. They employ the labour inspectors and define the practical rules and strategies of enforcement. They work together in a State Committee on Occupational Safety, Health and Technology, called ‘LASI’.

Another specific feature of the German OSH infrastructure is the important role played by the Statutory Accident Insurance (Deutsche Gesetzliche Unfallversicherung – DGUV). The DGUV is organised by sector. The sectoral organisations are traditionally called ‘Berufsgenossenschaften’, but for the last few years have officially been termed, ‘Unfallversicherungsträger’. They were founded in 1884 for insuring employers against the risks of occupational accidents. The German Statutory Accident Insurance employs more labour inspectors than all ‘Länder’ put together: some 3,500 compared to 3,000.

These three parties – the National Ministry (resp. BAuA), the representatives of the ‘Länder’ and the representatives of the German Statutory Accident Insurance form the National OSH Conference (NAK) being responsible for the German OSH strategy (Gemeinsame Deutsche Arbeitsschutzstrategie – GDA). With the NAK and further committees the GDA sets up the institutional framework for the better cooperation of the three partners which enables them to tackle the main OSH problems in joint working programmes.

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12 http://www.bmas.de/portal/16702/startseite.html
14 http://lasi.osha.de
15 http://www.dguv.de
16 http://www.gda-portal.de
As in other Member States, Germany also contains many other stakeholders and associations active in the field of OSH, such as the social partners, business associations and associations of OSH specialists and practitioners. Most of them (around 75 organisations) work together in the BASI (German Federal Association for Occupational Safety and Health). Every two years, this association organises the world’s largest OSH fair - the ‘A+A’ - in Düsseldorf.

### 1.1.4 Section 4: Overview of OSH obligations for enterprises

The organisation of OSH in enterprises follows the rules of the Arbeitssicherheitsgesetz (abbr. ASiG) which is the national transposition of the EU Framework Directives on health and safety at work (89/391/EEC). Employers are responsible for OSH, including risk evaluation, documentation of the risk assessment, workers’ information and health surveillance. Often, members of the middle management (such as line managers, supervisors and foremen) play a role in OSH when conducting risk assessments or organising training. Duties are delegated via an internal agreement.

Within enterprises, it is common for the employer to delegate OSH responsibilities to specialised safety personnel. This is most frequently the safety expert, the so-called ‘Fachkraft für Arbeitssicherheit’ or ‘Sicherheitsfachkraft’ (SIFA). After 12 weeks’ training in OSH organised by the Social Accident Insurance Institution, a qualified worker can become ‘Sicherheitsfachkraft’. Currently some 80,000 people hold this qualification (Winterfeld, 2009, 1). Alternatively, the employer might contract an external prevention service, or in small enterprises qualify as SIFA themselves (the so-called ‘Unternehmermodell’, literally ‘entrepreneur model’).

Medical surveillance is most frequently carried out by external services. Generally, only large companies employ their own occupational physicians (‘Betriebsärzte’). Details on occupational physicians and safety experts are laid down in the ASiG and in DGUV rule 2 (DGUV Vorschrift 2), the Decree on Occupational Health Supervision (Verordnung zur arbeitsmedizinischen Vorsorge, ArbMedVV) and in the Information on Social Accident Insurance Institutions. To become an occupational physician, the candidate must hold a specific additional qualification in occupational medicine (‘Gebietsbezeichnung Arbeitsmedizin” or “Zusatzbezeichnung Betriebsmedizin”; §3 DGUV V2, §7ArbMedVV). Qualification as an occupational physician takes at least 60 months of training. In 2010, some 12,500 physicians held the qualification.

§11 ASiG obliges companies to establish a safety committee (Arbeitsschutzausschuss, ASA) in each establishment with more than 20 full-time employees. The committee discusses all aspects of safety and health in the establishment and meets four times a year. Membership is made up of the employer or a representative, the safety experts, the occupational physician, safety delegates, two representatives nominated by the works council, plus any additional experts required. Representatives for disabled workers have the right to participate in meetings without a vote.

Information rights of workers are set out in the basic OSH legislation, while more extensive consultation rights are laid down in the legislation concerning works councils. For many aspects of working conditions, such as working time, supervision of workers and prevention of accidents and illnesses at work (including risk assessments), the works council has the right of co-determination.

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20 Own research, figure provided on request by DGAUM, German Society of Occupational and Environmental Medicine.
21 Section 87 of the Works Constitution Act allocates the Right of co-determination to following circumstances:
The works council shall have a right of co-determination in the following matters in so far as they are not prescribed by legislation or collective agreement:
- The commencement and termination of the daily working hours including breaks and the distribution of working hours among the days of the week;
- Any temporary reduction or extension of the hours normally worked in the establishment;
- The introduction and use of technical devices designed to monitor the behavior or performance of the employees;
- Arrangements for the prevention of accidents at work and occupational diseases and for the protection of health on the basis of legislation or safety regulations; …” (translation by ver.di, see: [www.verdi.de](http://www.verdi.de))
Co-determination means in practice that no party can overrule the other, and agreement between employers and employees has to be reached. In addition, the works council has various information rights. The works council can also send representatives to the safety committee (ASA).

Approximately 600,000 workers also have a minimum OSH certification (SUGA 2009, 217); they act as so called ‘Sicherheitsbeauftragte’ (OSH assigned person /delegates) at workplace level alongside their ‘normal’ job. The OSH delegate must be nominated in establishments with at least 20 employees and should not be a member of the management. The educational courses last a minimum of three days. These delegates are nominated by the employer and their main task is to support the employer, act as an ‘information multiplier’ and to be person of trust within the company.

One weakness in the German legislation is the transposition of the European rules on the health and safety representative. Real representation of the workers is only guaranteed in companies where a works council has been established. A works council can only be set up in establishments with at least five workers who have passive electoral rights and it must be established by the workers. Panel data shows that only between 38 per cent (Eastern Germany) and 45 per cent (Western Germany) of German employees work in establishments with work councils. In smaller establishments in particular, work councils often do not exist, or their establishment can be actively impeded by employers.

1.1.5 Section 5: Approach to risk assessment

The general rules for carrying out risk assessments are transposed into the law on occupational safety and health (Arbeitsschutzgesetz, abbr. ArbSchG) which is based on the European Framework Directive 89/391. This general obligation was introduced in 1996. This dictates that the employer and delegated persons shall assess the workplace risks (on a regular basis or special occasions) and take appropriate measures for improvement. They shall be supported by persons with special knowledge whenever necessary, such as the safety expert, the occupational physician, the fire protection officer or further specialists. The works council has a right of co-determination. The risk assessment should be documented; electronic documentation is accepted, although employers with fewer than ten employees can be exempted from this duty (e.g. §6 ArbSchG).

Special rules on risk assessment can be established by further laws on prevention; there are laws, decrees and ordinances on chemical agents (Chemikaliengesetz, Chemikalienverordnung) on biological agents (Biostoffverordnung) and on visual display units (VDU; Bildschirmarbeitsgesetz). These laws and decrees establish special rules that are prior to the general rules set out in the law on occupational safety and health (ArbSchG). One example is the risk assessment when working with dangerous substances; due to the Hazardous Substances Ordinance, the process has to be completed before work involving hazardous substances starts and the person who performs the risk assessment has to have the necessary expertise.

The system causes some cases of ambiguity and vagueness; there is an ongoing discussion on whether the German laws oblige every company to consider psycho-social factors in risk assessment or only those companies that are under the regulation §3 BildschirmArbG (law on working with VDU). In practice, organisational and psycho-social aspects are often neglected by risk assessment or primarily seen as duties of the quality or human resources management.

New figures from a 2011 survey showed that only 56 per cent of German businesses carry out risk assessments. While more than 90 per cent of businesses with 50+ employees fulfilled this legal obligation, only 42 per cent of the micro-enterprises said that they would carry out risk assessments. The aggregated figures for establishments with 10+ employees reflected those of the ESENER survey almost exactly (around 75%). However the new survey revealed that many risk assessments do not

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22 §1 BetrVG
cover all the hazards in the workplace: 44 per cent of those companies that do risk assessments confirmed that they did not include organisational issues in these assessments.\textsuperscript{24}

In order to promote risk assessment and to support company management, the partners of the Joint German OSH Strategy (GDA), BAuA, DGUV and the authorities of the Federal States, developed an internet portal (http://www.gefaehrdungsbeurteilung.de) which links to all available guidance and tools related to risk assessment in Germany. However, it is estimated that more than 1,000 such tools and guidelines exist.

1.1.6 Section 6: Drivers for taking measures on OSH

Incentives for addressing safety and health at work are not undisputed. Critics argue that it is a waste of money to give incentives for action which is prescribed by law. However, there are various models for incentives implemented by different stakeholders.

An ongoing activity co-ordinated by the BMAS and BAuA is the initiative on ‘New Quality of Work’ (INQA). INQA is a network bringing together stakeholders from policy making, research and development, counselling, social partners and companies. The aim is to mainstream occupational safety and health into practice. INQA funds the development of methods and instruments and helps to establish thematic networks on various topics. The initiative began in 2001 and many networks have been successfully established (for example, on demographic change, production work, care work, office work, small and medium enterprises etc.). A database of good practice examples was also launched.\textsuperscript{25}

BMAS and DGUV also recognise a number of high-performing companies annually. Various prizes have been established, including the prize for corporate social responsibility of BMAS,\textsuperscript{26} the German OSH Prize of BMAS, DGUV and Federal States (Länder)\textsuperscript{27} and the ‘Great Place to Work’ award, which is supported by the INQA network.\textsuperscript{28}

Some Federal States and their labour inspectorates try to encourage companies to install OSH management systems by supporting certain management standards and taking certification into account in inspection practice. This means that companies with certified OSH management systems are less frequently inspected.\textsuperscript{29}

The Social Accident Insurance Institutions run their own incentive systems based on insurance premium variations. These either grant bonuses to high-performing companies or try to punish underperformers with elevated premiums. Some systems also combine both approaches.\textsuperscript{30} Various evaluation studies examine the effectiveness of incentive systems for companies that participated and for insurance providers.\textsuperscript{31}

Further incentives have been set out for mainstreaming workplace health promotion (WHP) in companies. Examples include an insurance premium model tested by health insurance companies\textsuperscript{32} and additional tax incentives for companies.\textsuperscript{33} Some studies have examined whether these helped to encourage companies to mainstream WHP measures or install WH management systems. The new tax incentives were not perceived as helpful, in addition to already-existing rules for tax grants on

\textsuperscript{24} KOOP / TNS infratest: Second interim report to the evaluation of the Joint German OSH Strategy, December 2012.
\textsuperscript{25} http://www.inqa.de/DE/Startseite/start.html
\textsuperscript{26} http://www.csr-preis-bund.de/
\textsuperscript{27} http://www.deutscher-arbeitsschutzpreis.de/
\textsuperscript{28} http://www.greatplacetowork.de/partner-dba
\textsuperscript{29} Brueck C., Zayzon R., Lissner L., Institutionenlandschaft, pp. 32.
\textsuperscript{31} EU-OSHA (Ed), Economic incentives to improve occupational safety and health, Luxemburg 2010, pp. 108 ff, Kohstall
\textsuperscript{32} EU-OSHA (Ed), Economic incentives to improve occupational safety and health, Luxemburg 2010, pp. 135 ff.
\textsuperscript{33} § 3 Nr. 34 Einkommensteuergesetz (ESG)
investments.34 On the other hand, a survey conducted in 2010 showed that knowledge of good practice examples, tax benefits and general benefits were perceived as the top three incentives by management representatives of companies that had introduced, or were about to introduce, a health management system.35

1.1.7 Section 7: Level of concern at national level with OSH risks

Since 2008, the core activity of the main institutional stakeholders (the Federal Government (the Ministry for Labour and Social Affairs, BMAS and the Federal Institute for Occupational Safety and Health, BAuA), the German Statutory Accident Insurance (DGUV) and the authorities of the 16 Federal States) is coordinated by the Joint German OSH Strategy (GDA). The strategy is steered by the newly founded National OSH Conference (NAK) where the three partners are equally represented.

Besides the general aim of better collaboration, policy-making and rule-setting, the partners have declared common goals on prevention. In its first period (2008-2012), the GDA aimed at reducing the number of work accidents, work-related musculo-skeletal disorders and skin diseases. In order to reach these goals, the partners carried out 11 coordinated work programmes. These consisted of priority inspections and expert advice in companies from certain sectors or with a specific risk profile. These work programmes were.36

- Prevention of work accidents: Safety in construction works, safe transportation (in-house), safety in temporary employment and safety in schools.
- Prevention of MSD: Office work, care work, working in hotels, working in precision engineering, public transport services, and working in food production industry.
- Prevention of skin diseases due to wet work.

The evaluation of the 11 work programmes and of the overall design is still ongoing. Results are expected at the end of 2013. However, due to the set up of the work programmes, it appears unlikely that the evaluation can satisfactorily demonstrate any evidence on causality between strategic action and the self formulated quantitative goals at this point. Hence, the evaluation was designed as a long term study and an ongoing activity.

For the second period (2013-2017) the partners have decided to carry on the work prevention activity on work accidents and MSD, but work programmes may change. A further work programme on the prevention of psycho-social risks will be introduced.

The three partners of the GDA also established the database on risk assessment tools. This database pools knowledge and instruments on work place risk assessment in order to make them more accessible, to overcome prejudices and to contribute to improving the quality and quantity of prevention in companies.37

The strategic approach is flanked by further activities. Examples include the prevention campaigns of DGUV, such as the 2010/11 campaign ‘Risiko raus!’, aimed at road and transportation safety. A new campaign (‘Denk an mich, Dein Rücken’, 2013-15) will be dedicated to the prevention of back pain.38

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36 http://www.gda-portal.de/de/Arbeitsprogramme/Arbeitsprogramme.html
37 http://www.gefaehrdungsbeurteilung.de/en
38 http://www.dguv.de/inhalt/praevention/aktionen/praeventionskampagnen/index.jsp
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Enterprise resources dedicated to OSH management

A new survey on OSH infrastructure in German businesses was conducted during the evaluation of the Joint German OSH Strategy (GDA-Dachevaluation). Unfortunately, the figures are not available yet. The figures from the ESENER survey revealed that only 72 per cent of the German businesses had access to a safety expert and only 66 per cent to an occupational physician. This suggests that at least one third of establishments do not comply with the national regulations on OSH management.

1.1.8 Section 8: OSH training of employee representatives

Real worker representation in companies is only guaranteed by works councils (see above). Members of works councils are elected by the employees of the company and do not require any specific training for safety and health at work. In practice, information and training for works council members is mainly offered by the trade unions and by the Social Accident Insurance Institutions.

Other employees have special authority or fulfil certain tasks in safety and health at work without formally representing the workers: The most prominent is the OSH delegate (Sicherheitsbeauftragter, cf. section 4). The position and duties of OSH delegates are regulated by law. OSH delegates are nominated by the employer and are trained in a three day educational course provided by the Social Accident Insurance Institutions.

Furthermore there are fire protection assistants (Brandschutzhelfer), first-aid workers (Ersthelfer) and company paramedics (Betriebssanitäter). Their training is provided by the Social Accident Insurance Institutions, the Red Cross, the TÜV and other private providers.

1.1.9 Section 9: Worker involvement and participation in OSH

The role of social partners in policy-making in Germany is less formalised than in European policy-making. Tripartite committees are not officially established; however, the national Parliament frequently invites representatives of trade unions and employer associations to bodies such as the committee for labour and social affairs. They are also represented in technical committees at the Ministry for Labour and Social Affairs (BMAS) that prepare and issue rules on prevention and at the national Commission for Standardisation in OSH (Kommission Arbeitsschutz und Normung, KAN).

The social partners also participate in the National OSH Conference (NAK), the steering body of the Joint German OSH Conference (GDA) and in its sub-committees. They are represented in the organs (board and chamber of delegates) of the self-governed Social Accident Insurance Institutions. They are frequent members of the boards of the most important OSH networks and associations in Germany, such as BASI, Gesellschaft für Arbeitswissenschaft (Society for Ergonomics, GfA) and INQA.

Social partners are also active in training, policy advice and research. They carry out their own surveys on safety and health at work (e.g. DGB index), have their own communication media and run their own programmes (e.g. ‘Gute Arbeit’ campaign of the trade union Ver.di). Research facilities include Hans-Böckler-Stiftung, Institut für Angewandte Arbeitswissenschaft (Institute for Applied European Agency for Safety and Health at Work – EU-OSHA

References:
40 ESENER, p.31
41 §22 SGB VII and chapter 4 of BGR A1 (Rule A1 of the Social Accident Insurance Institutions)
42 http://www.dguv.de/inhalt/bildung/bildungsanbieter/index.jsp
43 See: OSH Infrastructure in Germany, OSH Wiki article, to appear on the EU-OSHA homepage
44 http://www.bundestag.de/bundestag/ausschuesse17/a11/index.jsp
46 http://www.kan.de/de/wir-ueber-uns/organisation.html
Ergonomics, ifaa) and Rationalisierungs- und Innovationszentrum der Deutschen Wirtschaft e.V. (RKW). 48

Germany has traditionally had strong models for committees of representation and co-decision within companies. The forerunner was the coal and steel industry which later became a role model for other sectors. 49 However, regarding OSH, it must be concluded that the transposition of European rules for health and safety representatives at company level remains a weakness in the German legislation. 50

Real representation of the workers is only guaranteed in companies where a works council has been established. A works council can only be set up in establishments with at least five workers who have passive electoral rights and it must be established by the workers. 51 According to panel data, only between 38 per cent (Eastern Germany) and 45 per cent (Western Germany) of the German employees work in an establishment where a works council exists. 52 In smaller establishments, work councils often do not exist or their work and their establishment can be actively impeded by the employers.

Often the OSH delegate (Sicherheitsbeauftragter) is counted as a health and safety representative. This is a common misinterpretation resulting from the lack of representatives in German businesses. The OSH delegate is in fact nominated by the employer and supports the management first and foremost. He or she should also be a person of trust; however, the OSH delegate does not represent the workers.

1.2 Participants

In total, interviews were conducted in 19 establishments across Germany, covering a range of sectors and sizes, as shown in Table 5. In all establishments an interview was carried out with the management representative for health and safety, whilst in 16 establishments interviews were also completed with an employee representative. In three establishments the same person completed both interview guides. In one case the management representative and employee representative preferred to have a joint interview so not all of the questions from the employee representative interview guide were completed.

Table 1: Achieved sample breakdown Germany

<table>
<thead>
<tr>
<th>Sector</th>
<th>Size</th>
<th>No. establishments (corrected categorisation)</th>
<th>No. employee reps interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Producing</td>
<td>Micro/very small 10 to 19</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Small 20 to 49</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Medium 50 to 149</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>Large 150 +</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Private services</td>
<td>10 to 19</td>
<td>3</td>
<td>2</td>
</tr>
</tbody>
</table>

49 See: OSH Infrastructure in Germany, OSH Wiki article, to appear on the EU-OSHA homepage
50 See Kohte
51 §1 BetrVG
In micro and small businesses, the management representative was usually a member of senior management. For these individuals OSH was one of many responsibilities and daily tasks. Most of them had not received any training in OSH. Only one of the small establishments from the sample had its own OSH manager; this was a branch of a bigger company and the OSH manager acted as OSH expert for various branches. In medium-sized establishments, management representatives tended to be middle managers or supervisors, whilst in large establishments, they were dedicated OSH managers or experts. In three public administration establishments the coordination of OSH matters was delegated to officials or office clerks who did not play any role in management.

In 15 of the 19 establishments, whilst individuals in the establishment held responsibility for OSH, external providers were contracted to carry out most OSH activities. In all of the public administration bodies, OSH activities were outsourced. In 17 of the 19 establishments, an external occupational physician was contracted to carry out health surveillance.

In 16 establishments, interviews were also carried out with employee representatives. In large establishments, the employee representative interview was held with a works council member. In medium-sized and small establishments, the employee representative was either a works council member, OSH delegate or held another role. In the micro establishments, all employee representatives were either OSH delegates or held another role. As mentioned above, in three establishments (one medium-sized charity, one small and one large producing establishment) the interviewee who answered the management representative questions also answered (at least in part) the employee representative questions.

Most of the employee representatives were trained in OSH. While this is obligatory for OSH delegates, it is not for works council members. However, genuine representation of workers is only guaranteed in companies where a works council has been established (the OSH delegate is a worker that supports the general management in the fulfilment of its duties but does not officially represent the workers). As such, some of the responses to the employee representative questions should be treated with caution.

In smaller establishments from the non-profit or charity sector, it was often difficult to determine who should complete the employee representative interview as no one held this title. In one establishment, a parish, it was completed by a representative with no formal nomination or delegation who worked as sacristan. In a charitable youth welfare organisation, the director of the establishment completed the employee representative interview and the head of the management board completed the management representative interview.
1.3 Main findings

1.3.1 Management of health and safety

- Technical issues

**MM155/ER200 – 'Is there a documented policy, established management system or action plan on health and safety in your establishment?'

Many of the interviewees were unsure what was meant by this question and which documents they should refer to. In one establishment, the management representative and employee representative referred to different things when being asked about a company policy; one discussed the quality management system in place which includes the regulation of OSH issues in the organisation, whilst the other discussed the company's certified health management programme (betriebliches Gesundheitsmanagement) which covers ergonomic checks and company-facilitated sport activities. Some respondents referred to their written risk assessments as evidence of having such documents. In one case the employee representative identified the text of the workplace ordinance (the national transposition of EU-Dir 89/654) as such a policy.

Establishments that claimed not to have such a policy emphasised that there was a Berufsgenossenschaft regulation of OSH management in the organisation that had been implemented with the help of an external OSH expert. This shows that a negative answer to the question does not necessarily indicate deficient OSH implementation. It should be noted that this question probably has a different connotation in Germany than in other EU Member states such as the UK. Whilst many functions and duties are defined by law, like the occupational safety and health act (ArbSchG) or in the act on health surveillance in the enterprises (ASiG), it is not obligatory for establishments in Germany to have their own policy or guidelines for OSH.

**MM156/ER202 – 'In practice, how much of an impact does this policy, management system or action plan have on health and safety in your establishment? Does it have a large impact, some impact, or practically no impact?'

EU-OSHA’s objective was to identify whether the OSH policy or management system formed only a ‘tick box exercise’ or whether it had a lasting effect on the organisation. However, the term ‘impact’ was interpreted in many different ways by the interviewees. Whilst some saw ‘impact’ as referring to whether the OSH policy steered all aspects of the establishment’s activities (eg working time and rest periods, prevention measures, information and training, occupational health surveillance etc.), others saw it as the level of knowledge of the OSH policy among employees, or the general state of health of employees. As such, a positive answer here was not always indicative of good OSH performance:

‘It has a large impact because in each department several issues of the OSH management manual have been handed out. It was also distributed via email to all employees so that they would have the possibility to read it, I mean, some of them have read it, I’ve read it, but… there are checks in regular intervals, whether the people know where the manual is and whether they have read it, too.’

Employee representative, large establishment producing luxury items

Some interviewees rated the OSH policy in their establishments as having only ‘some’ impact because it is only a piece of paper. One interviewee described how other aspects were more important for good OSH practice:

‘It showed the way, where to go, but eventually, the biggest effect comes from what was built around this basis, namely standards, workplace checks,
practical instructions derived from the concept. All these things had a larger impact than the paper.’

Management representative, medium-sized charity establishment

MM159/ER214 – ‘Overall, how would you rate the degree of involvement of the line managers and supervisors in the management of health and safety? Is it very high, quite high, quite low or very low?’

Some of the interviewees from smaller organisations found this question slightly awkward because they included themselves in the group of ‘line managers and supervisors’ so were essentially being asked to assess their own levels of involvement. For this reason, some refused to answer the question.

In establishments with different activity types, interviewees found it difficult to give a single overall rating of involvement as many different people were responsible for supervising a range of activities.

- Interpretations

About half of the interviewees reported having documented policy or a management system in place. All four establishments from the producing sector answered positively, whereas the share of negative answers in the private as well as public services sectors was about the same.

The items described included a range of different document types, including a quality management system, a manual or a folder. Establishments from the producing sector reported to have a manual or a management system including OSH issues. Quite a number of establishments, mainly from the public services sector, reported that they stick to Berufsgenossenschaft guidelines even though they do not have their own policy or management system.

Of those establishments that reported having an OSH policy or management system, most assessed that these either had a large impact or some impact on the establishment. Agreement between management representatives and employee representatives was high. A few of those who assigned only ‘some’ impact did so because they thought other tools and activities were more essential to actual OSH performance. Although the sample was not representative, larger establishments were more likely than smaller establishments to rate the impact of the OSH policy or management system as high.

The engagement of the managers was rated very high in the majority of establishments and only two rated it as quite low. Again, the opinions of management representatives and employee representatives did not differ greatly. Several interviewees indicated that engagement of managers (as well as staff in general) was higher amongst those in production roles than those in administration, even within a single establishment.

1.3.2 Level of concern with OSH risks

- Technical issues

MM200/ER250 – ‘For each of the following issues, please tell me whether it is of major concern, some concern, or no concern at all in your establishment?’

01) Dangerous substances (eg dusts, chemical, biological); 02) Accidents; 03) Noise and vibration; 04) Musculoskeletal disorders; 05) Work-related stress; 06) Violence or threat of violence; 07) Bullying or harassment.
At least two interviewees were not sure whether disinfectants belonged to the category ‘dangerous substances’ (item 1) and were unable to answer this until clarified. Interviewees in the elderly care sector tended not to include biological substances that they deal with through their work with patients as falling into this category. Including a more detailed list of examples of substances and preparations (including those not usually perceived as dangerous substances by laymen) may help to clarify this part of the question.

The response options of ‘major concern’, ‘some concern’ and ‘no concern at all’ were translated into the German terms ‘wichtiges Thema’, ‘weniger wichtiges Thema’, and ‘gar kein Thema’, respectively. The German word Thema denotes ‘topic’ in general, and, depending on the context, has the specific meaning ‘discussion topic’. As such, interpretations of the question varied. A hazard was considered a concern in the establishment for a range of reasons as follows:

- It is prevalent or occurs frequently in the workplace
- If an incident occurs the consequences are serious
- It is something that is discussed within the establishment
- It is something that is conventionally seen as belonging to the concept of OSH

The last of these interpretations does not adhere to EU-OSHA’s underlying objective of the question being used to identify main priority areas in the establishment. In some cases work-related stress, bullying or harassment were not considered conventional OSH topics so not a concern to the organisation, even if these issues were discussed in the establishment.

There were some translation issues with this question. The differences between the response options in the scale were not equivalent in the German and English versions. Whereas the second response option in English (‘some concern’) denotes that the establishment is concerned, just to a lower extent than if the option ‘major’ was chosen, in the corresponding German version, the response option ‘weniger wichtiges Thema’ literally means ‘less important issue’ and therefore has a more negative connotation. Many interviewees who considered some of these risks a concern were loath to use this response category. As such, any concerns tended to be seen as major when in fact some were more important than others.

This might be one reason why several interviewees spontaneously mentioned that some areas were ‘very important’ as opposed to just ‘important’ in their answers, and stated that they would have liked an additional response option of ‘sehr wichtiges Thema’. A more equivalent or, at least, a better differentiated scale is required in this question to meet the EU-OSHA’s objective of identifying priority risk areas.

In some establishments it was observed that employee and management representatives used different reference points in their answers, in the sense that employee representatives focused on risks at their workplace or work area whilst management representatives tended to consider the organisation/types of work activities as a whole.

- Interpretations

01) Dangerous substances were perceived as a major concern in most establishments, with only a small minority rating them as no concern at all. In general, dangerous substances were not perceived as a major concern in public administration establishments, with just one exception. They were a major concern in establishments in the producing sector. In facility maintenance, catering and care services, dangerous substances were perceived as only some concern, even though staff in these establishments probably dealt with these on a daily basis.

02) Accidents were considered a major concern in the majority of establishments. Only two establishments (and an employee representative from another establishment) assessed that accidents were no concern. Some of those who rated accidents as an important issue did so not because of the frequency of occurrence but because of the potential consequences of any accident.
03) About one-third of the interviewees rated noise and vibration a major concern, a minor concern, or no concern at all, respectively. Noise was more likely to be considered a concern than vibration. The views of management representatives and employee representatives tended to be consistent. In those cases where they differed, it was mostly the employee representative who rated the issue of higher concern. This was more often the case in smaller establishments and in establishments with multiple sites and different types of activities. This appears to be in part due to the use of different reference points. Whilst management representatives from these establishments tended to consider the organisation/types of work activities as a whole, employee representatives often focused on the risks in their own work area or activity. A number of employee representatives worked in technical roles, which explains why they were more likely to be exposed to noise and consider it a concern.

04) Musculoskeletal disorders (MSDs) were considered a major concern by the majority of interviewees across all sizes and sectors and there was general agreement between management and employee representatives. In three establishments (one micro private service establishment and two medium-sized producing establishments) at least one interviewee assessed that this was no concern at all.

05) Work-related stress was considered a major concern by the majority of interviewees. Only one interviewee, from a private services establishment, claimed that work-related stress was not an issue at all.

06) Violence or threat of violence was felt to be no concern at all by the majority of interviewees. Only two interviewees (from different establishments) assessed that violence or threat of violence was a major concern.

07) Bullying or harassment was felt to be no concern at all by the majority of interviewees. The opinions of management representatives and employee representatives tended to be consistent, except for in one medium-sized establishment from the public services sector (municipality administration), where the management representative assessed the issue of bullying a major concern while the employee representative considered it of no concern at all.

1.3.3 Approach to risk assessment

- Technical issues

**MM161/ER207 – 'Are workplaces in the establishment regularly checked for safety and health as part of a risk assessment or similar measure?'

This question was generally well understood. Most interviewees referred only to workplace inspections in their responses, even if other checks (eg of ergonomics, psycho-social risks) were also carried out. For activities on multiple sites (specifically in facilities maintenance or construction works), answers from respondents also referred to activity-based risk assessments. In some establishments, the management and employee representatives referred to different types of checks in their answers. Management representatives tended to refer to risk assessments carried out at regular intervals in order to comply with the legislation, whilst employee representatives referred to other types of checks. Given the different reference points, it may be useful to replace this question with a set of questions asking firstly, whether risk assessments are carried out on workplaces, secondly whether risk assessments are carried out on activities and, thirdly, whether other prevention measures take place.
MM162 – 'Are these risk assessments or workplace checks mostly conducted by your own staff or are they normally contracted to external service providers?'

(1) Conducted by own staff, (2) Contracted to external providers, (3) Both about equally, (4) No answer.

In a number of establishments, the annual, bi- or tri-annual risk assessments were carried out by external OSH services (namely, by a safety expert and an occupational health physician), but further workplace checks were performed by internal staff. It was felt that the answer options did not capture this fully as it was rarely the case that internal or external staff were used 'both about equally'. If the response options are to remain the same in the next survey, it may be worth changing the order of them. Respondents spontaneously voted for the first option (external services), but reported subsequently that internal staff were also involved so it may be worth putting option 3 (both) in first place on the list.

MM163 – 'On which occasions are these risk assessments or workplace checks carried out?'

01) Following a change in the staffing, layout or organisation of work; 02) At the request of employees eg in case of complaints; 03) At regular intervals, without any specific cause.

This question was generally well understood. However, most of the answers for item 2 were theoretical as most establishments had not received requests or complaints from employees. No alternative occasions that might prompt a risk assessment were suggested.

MM164 – 'Which of the following areas are routinely considered in these checks?'

(1) Equipment and the working environment, (2) The way work is organised, (3) Irregular or long working hours, (4) Supervisor-employee relationships.

'The way work is organised' (item 2) was sometimes considered to refer to the same thing as 'equipment and the working environment' (item 1). Examples given for this included ergonomic workplace design but never referred to the working processes, so it may be necessary to add a brief explanation of this into the question. Some of the management representatives explained that working processes were dealt with by general management rather than by themselves. Many management representatives said that irregular or long working hours were regulated by law and in-house arrangements between management and the works council, so were not the subject of risk assessments. The last item ‘supervisor-employee relationships’ was generally well understood, but was often considered irrelevant to OSH.

MM166 – 'And which of the following actions have been taken as a follow-up to these checks?'

01) Changes to equipment or working environment; 02) Changes to the way work is organised; 03) Changes to working time arrangements; 04) Provision of training.

This question was well understood. However, probably due to social desirability bias, respondents often included activities they had undertaken even where these were not the result of a former risk assessment. In the survey, it may be worth repeating the introduction for each item.
As mentioned in relation to MM161, some of the management representatives referred only to workplace inspections rather than other types of checks (eg checks of ergonomics, psychosocial risks) when answering this question.

**Employee representative questions on risk assessment**

**ER209 – ‘Do you have a say in the decisions on when and where these risk assessments or workplace checks are carried out?’**

This question was answered by only ten employee representatives out of 15. The use of the term ‘Mitspracherecht’ in the German version of the question meant it could be interpreted as asking whether they have a formal legal right to decide on these issues or whether they are consulted on these issues. This led to some confusion among interviewees; one answered both yes and no, explaining that she was consulted on when and where risk assessments are carried out but did not have a say in legal terms.

A number of the employee representatives did not consider it necessary for themselves to be involved in these decisions, either because the law determines when and where risk assessments are carried out or because the decisions are made by other more skilled staff.

**ER210 – ‘If the risk assessment or workplace check identifies a need for action: Is the necessary follow-up action normally taken?’**

**ER211 – ‘And are you as health and safety representatives usually involved in the choice of follow-up actions?’**

Both of these questions were well understood.

**MM169/ER213 – ‘Are there any particular reasons why these checks are not regularly carried out?’**

This question was well understood in the cases where it applied.

**Interpretations**

In nearly all of the establishments, risk assessments were performed regularly, either annually, or every two or three years. In about one quarter of the establishments no risk assessments were carried out, although in two of these risk assessments were about to be introduced. These establishments ranged in terms of size and sector, although none were from the producing sector.

In around half of the establishments, internal staff were responsible for carrying out risk assessments, whilst in others these were completed either by external services alone or by both groups about equally. The management representative of a large establishment manufacturing luxury items claimed that it was more useful for internal staff rather than external services to conduct the risk assessments as the knowledge generated by these remained in the company.

Almost all the management representatives who reported that risk assessments were carried out assured that these were done on all occasions specified in MM163 (ie following a change in the staffing, layout or organisation of work, at the request of employees, and at regular intervals, without any specific cause).

Only in one small utility company did the management representative report that all aspects of MM164 were routinely considered in risk assessments. Most management representatives said that
equipment and the working environment were routinely considered, whilst only four (mostly from the public services sector) considered the way work is organised and only two said that working time and supervisor-employee relationships were the subject of risk assessments.

In two establishments (a large manufacturer of luxury items and a small laboratory) the management representatives reported that they had implemented all the measures in MM166 (ie changes to equipment or working environment, changes to the way work is organised, changes to working time arrangements, and provision of training). Around half of the management representatives reported changes to working equipment and provision of training, whilst fewer reported changes to the way work is organised and working time arrangements.

Six employee representatives answered that they had a say in decisions on when and where risk assessments or workplace checks were carried out. Mostly, this was due to the fact that they were involved in the activities of the works council (staff committee) in their establishment. A number of the employee representatives who reported not to have a say in these decisions specified that they did not consider it necessary.

The employee representatives were unanimous in stating that follow-up actions were normally taken in their establishments, although one noted that actions were sometimes only partially completed. The majority of employee representatives said they were involved in the choice of follow-up actions. These tended to be large establishments (of all sectors) or small private services.

The two micro establishments (a charity and a private educational establishment) that reported not conducting risk assessments said this was because they were too time-consuming. In a large administration establishment, it was argued that the necessary expertise was lacking in the establishment, but at the same time that risk assessments were not necessary as the establishment did not have any major health and safety problems.

### 1.3.4 Drivers and barriers to measures on OSH

#### Technical issues

<table>
<thead>
<tr>
<th>Question</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MM171</td>
<td>‘In your establishment, how important are the following reasons for addressing health and safety? For each one, please tell me whether it is a major reason, a minor reason, or no reason at all.’</td>
</tr>
<tr>
<td>01) Fulfilment of legal obligation; 02) Requests from employees or their representatives; 03) Staff retention and absence management; 04) Economic or performance-related reasons; 05) Requirements from clients or concern about the organisation’s reputation; 06) Pressure from the labour inspector.</td>
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This question was generally well understood, with some exceptions. A minority stated that they did not understand the relevance of item 4 (economic performance) and some clarification was required for item 3 (staff retention and absence) and item 2 (requests from employees).

In some cases it was clear that items 3 and 5 (staff retention-absence and reputation-related reasons) were linked to item 4 (economic performance), since poor performance in either of these areas could affect business and profit.

‘If we weren’t doing OSH to the extent we do this would probably result in absenteeism which would be bad for the economic performance.’

Management representative, small clerical establishment

Fulfilment of legal obligation (item 1) was seen as connected to pressure from the labour inspection or Berufsgenossenschaft (item 6). Some management representatives explicitly referred to
inspections when answering item 6 whilst many referred to general rules established by the Social Accident Insurance Institution. In Germany these rules are an integrated part of the legislative system.

**MM172 – 'In your establishment, what are the main difficulties in dealing with health and safety? Please tell me for each of the following whether it is a major difficulty, a minor difficulty, or not a difficulty at all.'**

01) A lack of resources such as time, staff or money; 02) A lack of awareness; 03) A lack of expertise; 04) A lack of technical support or guidance; 05) The culture within the establishment; 06) The sensitivity of the issue.

The question was generally well understood, except for items 5 (the culture within the establishment) and 6 (the sensitivity of the issue). The culture within the establishment was sometimes described in the same way as reports about awareness of OSH issues, suggesting it is similar to item 2 (lack of awareness).

Item 6 confused a number of the management representatives. This was partly due to a translation issue; the word ‘Brisanz’ was used to denote ‘sensitivity’ but this literally translates to ‘explosiveness’, so may not be considered equivalent. It was also not clear to interviewees why a sensitive (or explosive) issue would necessarily present a difficulty. Some thought that OSH was not sensitive, therefore did not present a difficulty, whilst others found the fact that it was a sensitive topic useful in their establishment as it encouraged others to take it seriously.

**Interpretations**

The responses to MM171 (reasons for addressing health and safety) were as follows:

01) All but one management representative reported that fulfilment of legal obligation was a major reason for addressing health and safety. The interviewee from the remaining establishment stated that this was a minor reason. One interviewee made it clear that the main driver behind their approach to health and safety was the law and that all other reasons were secondary.

‘If somebody would ask me something, I would say, this is not a reason why to take up OSH issues. As I've already said, I orientate myself on what is prescribed by law. If an employee would say, he needs a golden chair to feel better at work, I wouldn't care for that… Of course, if a client should say, I should do this or that, otherwise he would stop shipping, I would think about it, and that's why I said this was a minor reason, not a major reason. But in principle, nobody has a say in what I should do additionally for my employees.’

Management representative, micro-sized logistics company

02) Requests from employees or their representatives were felt to be a major reason by all but two management representatives. One interviewee rated it to be a minor reason, whilst the other believed it was no reason at all for addressing health and safety.

03) Staff retention and absence management were considered to be a major reason for addressing health and safety by the majority of management representatives. Three interviewees did not answer this question as they did not understand the relevance of this to OSH.

04) Views on the extent to which economic or performance-related reasons drive OSH varied, with fairly equal proportions stating these were a major reason, a minor reason or no reason at all. Overall, economic reasons were less likely to be considered drivers amongst larger establishments or those in the public sector than amongst smaller establishments or those in the private sector. As mentioned
above, the role of economics in driving OSH was apparent in some of the responses concerning other items, which were often considered drivers if they had implications for the company’s finances.

05) Damage to reputation was seen as a reason for addressing health and safety in nearly all of the establishments, with equal proportions stating that it was a major or minor reason.

06) Pressure from the labour inspector or Berufsgenossenschaft was felt to be a major reason for addressing health and safety in most establishments. As stated above, many referred to the general rules established by the Social Accident Insurance Institution, which are an integrated part of the legislative system.

The responses to MM172 (difficulties in addressing health and safety) were as follows:

01) A lack of resources such as time, staff or money was felt to be a minor difficulty in around half of the establishments and no difficulty at all in five. The answers varied across sectors and establishment sizes; micro private service establishments were more likely to consider this a major difficulty than larger establishments, whereas publicly-funded establishments tended to report no difficulties. In a large public establishment providing catering, housing and social services the management representative reported that there was less pressure for them in terms of resources than would be found in private establishments.

02) A lack of awareness was reported by the majority of management representatives to be either a major or a minor difficulty in their establishment. Only two interviewees (both from micro establishments) felt that this was no difficulty at all. In medium-sized and large multi-site establishments, awareness of OSH issues was felt to be particularly low amongst those involved in administrative activities.

03) Just under half of the management representatives thought that a lack of expertise was not a difficulty and only four considered it a major obstacle. All but one of those who said it was not an obstacle came from micro-sized or small establishments that usually outsourced OSH activities to external experts, so in these cases the management representative knew who to ask for advice. Most of those considering a lack of expertise a major difficulty were from public service establishments.

04) A lack of technical support or guidance was not considered a difficulty by the majority of management representatives. Establishments in the producing sector often got this support and guidance from an internal safety department. One management representative from a small mechanical engineering department considered workers the best experts of their machines. Two management representatives from medium-sized public administrations claimed this was a minor difficulty, but still thought that they could access support if needed. Only one small establishment, in the medical services sector, claimed that a lack of technical support was a major difficulty because the machines they used did not come with appropriate operating instructions.

05) The culture within the establishment tended to be seen as less of an obstacle than some of the others. Only one management representative (from a small mechanical engineering business) claimed it was a major difficulty whilst three respondents from different types of establishments believed it was a minor difficulty. Several interviewees reported that the positive culture in their establishment was due to good communication and fairly flat hierarchical structures.

06) As indicated in the technical section above, the question regarding the sensitivity of the issue caused confusion in quite a number of cases. As a result, about one third of the management representatives did not respond to this question. Around half of the interviewees did not consider this a difficulty. Only one, from a small establishment in the education sector, felt it was a major difficulty whilst two others (a micro logistics establishment and a large municipality) felt that it was a minor difficulty. The management representative from the education profession seemed to be aware of the sensitivity of psychosocial issues such as violence, harassment, and work-related stress. In answering other questions, some other interviewees also mentioned that work-related stress was a personal issue, but for this reason did not think it was something for the establishment to address.
1.3.5 Worker participation and involvement

These questions were asked to employee representatives only so not all of the establishments completed these questions.

- Technical issues

Overall, this section of the cognitive interviews worked well.

**ER102** – ‘Is there a permanent committee or working group consisting of members of the management and representatives of the employees dealing with safety and health in the establishment?’

There were no issues with this question which appeared to be well understood by most of the employee representatives. However, two interviewees mistook the works council for a joint committee of workers and management on OSH.

**ER107** – ‘How often do controversies related to safety and health arise between the management and the employee representatives? Is this often, sometimes or practically never the case?’

This question was well understood by most employee representatives. However, some respondents initially referred to conflicts between management and worker representatives on general issues rather than OSH issues. This is possibly due to the fact that some mistakenly included the works council in their response to the previous question (ER102).

**ER205** – ‘Are employees in this establishment regularly informed about safety and health at the workplace?’

There were no issues with this question which appeared to be well understood by all of the employee representatives.

**ER215_05** – ‘Please tell me whether you agree (1), neither agree nor disagree (2) or disagree (3) with the following statement: ‘Our management gives proper consideration to occupational safety and health issues raised by employees or their representatives’.

Who precisely was included in the term ‘management’ varied between the employee representatives. In small establishments, management was seen simply as the CEO, whilst in bigger establishments it also included those involved in the safety committee (which was typically the forum at which these kinds of issues were raised).

- Interpretations

Four employee representatives said that there was no permanent committee or working group consisting of management and representatives of the employees dealing with OSH in their establishments. Those who said that such a group did exist referred to a safety committee or working group on health and safety issues, although as mentioned previously, a minority mistook the works council as representing a joint committee of workers and management.

In most establishments, controversies related to health and safety issues between management and employee representatives either never or practically never occurred. The vast majority of employee representatives said that employees received information on OSH in the workplace on a regular basis. Some received this through written documents and others through face-to-face discussions. In some
cases once per year was perceived as ‘regular’. Only one employee representative said that information was provided only on certain occasions rather than regularly.

All employee representatives agreed that their management gave proper consideration to OSH issues raised by employees, and some were able to draw on the fulfilment of requests made by them personally, such as requests for PPE or work equipment with certain safety features.

1.3.6 Resources and training in OSH issues

- **Technical points**

| ER150 – ‘Do you as the employee representative for safety and health usually get sufficient time off from normal duties to perform these tasks adequately?’ |
| ER154 – ‘Does the management provide you with the necessary information for carrying out your health and safety tasks properly?’ |

Both of these questions were well understood by the employee representatives.

| ER155 – ‘Do you usually receive the information on time and without having to ask for it?’ |

In answering this question, some employee representatives referred to information received from external providers rather than management and some referred to information that had nothing to do with OSH. It may be necessary to repeat some of ER154 in order for ER155 to be properly understood.

| ER159 – ‘On which of the following issues have you or your health and safety representative colleagues received training?’ |
| (1) Fire safety, (2) Prevention of accidents, (3) Chemical, biological, radiation or dust hazards, (4) Ergonomics, (5) Violence, bullying or harassment, (6) Work-related stress, (7) Discrimination (for example due to age, gender, race or disability). |

Almost all of the employee representatives felt comfortable discussing their own training, but were uncertain about what had been received by their health and safety representative colleagues. That said, sometimes they could not remember the details of the training they had received or the circumstances under which it took place. As such it is unlikely that responses to this question covered all training received. The employee representatives often included training delivered to all staff in their responses, not just training for those holding a representative role.

| ER160 – ‘Is this training sufficient or would more training in any of these fields be desirable?’ |

This question covers two contradictory issues, whether training is sufficient and whether more training is desirable. The use of ‘or’ in it makes it slightly confusing, as an employee representative could both consider the training sufficient for their role and wish to receive more training. It may be better to replace this question with a simpler one asking employee representatives to agree or disagree with a single statement, eg ‘Please tell me whether you agree (1), neither agree nor disagree (2) or disagree (3) with the statement ‘The training I have received to help me fulfil my health and safety representative role is sufficient’.”
ER162 – ‘Which of the following are the main reasons for receiving no or not sufficient training on these issues?’

(1) Difficulties to get time off for such training, (2) Lack of information about available courses, (3) Available courses are not appropriate for our situation, (4) Difficulties to get the financial resources for the training.

There were no major difficulties with this question. However, the filtering to this question may need to be altered slightly. In the current set up, anyone who has received only a little training (at ER159) who nonetheless feels that this is sufficient (at ER160), will not be asked this question. As such it will remain unclear why so little training has been received.

- Interpretations

All but one of the employee representative said that they usually got sufficient time off from normal duties to perform their OSH tasks. Some interviewees explained that there were times when other priorities interfered with their OSH duties, but in general they all felt that they had enough time. However, responses to this question tell us nothing about the amount of time dedicated to OSH issues. This varied substantially in our sample as it included works council members from large establishments who were exempt from other duties as well as OSH delegates from small establishments who carried out their OSH duties alongside other responsibilities.

All employee representatives stated that management in their establishments provided them with the necessary information to carry out their health and safety tasks, and all said that this was received on time without them having to ask for it. Most received this information via email or in-house post, and some told how they were allowed to buy additional information if required without needing to get permission first.

Most of the employee representatives had received training on fire safety and accident prevention and around half had received training on ergonomics and violence, bullying or harassment. Only five employee representatives had received training on work-related stress or discrimination and only four had received training on dangerous substances. Several employee representatives could not remember the details of the training they had received. For example, around one-third of the interviewees were unsure whether they had received any training on discrimination.

Views on whether the training received was sufficient were mixed. It was interesting to observe that satisfaction with the training received did not necessarily correlate with the quantity of training received; some employee representatives who had never received training or at least not for a long time were nonetheless satisfied that what they had received was sufficient. Some were clearly not aware of what kind of training they needed.

Six of the seven employee representatives who felt that more training was needed said that the main barrier preventing them from getting this was a lack of information about available courses. The second most frequent barrier was financial constraints. Only one employee representative thought that a lack of time off for training and the fact that available courses were inappropriate prevented him from getting the training he desired.

1.3.7 OSH and organisational performance

- Technical issues

Generally management representatives struggled to make comparisons between their own and other similar establishments, so there was a lot of non-response for MM402 and both new questions. Whilst they knew who they should compare themselves against, they tended not to have any knowledge of their own or others’ performance. Answers were often based on ‘gut feel’ or anecdotal evidence rather than any empirical data, so reliability is likely to be low.
MM402 – 'How would you rate the level of absenteeism in your establishment compared with other establishments in the sector? Is it very high, quite high, about average, quite low or very low?'

The management representatives found this question difficult to answer because they tended not to have the information required. Some were not aware of absence levels within their own company, whilst others were unaware of the absence levels for their sector. Hence many of the management representatives made a guess at an answer and five gave no answer at all.

New Question – ‘Compared to other organisations of your size and sector in Germany, how well would you say you perform in terms of health and safety outcomes such as the number of accidents and injuries at work, and the level of sickness absence?’

The problems with this question were similar to those for MM402 noted above. The management representatives were often unaware of the health and safety outcomes of their own or other similar establishments so answers given were vague and not based on reliable information. All but three of the management representatives either hedged their bets on ‘average’ or gave no answer to the question. Only those who worked full time on OSH in their establishments seemed able to give an informed response. The interviewer also felt that the term ‘OSH performance’ made this new question more abstract and less clear than MM402.

MM403 – 'How would you rate the current economic situation of this establishment? Is it very good, quite good, neither good nor bad, quite bad or very bad?'

This question worked fairly well and most respondents were sure about their answers. However, a number of non-profit organisations did not consider this question applicable to their situation.

New question – 'Compared to other organisations of your size and sector in Germany, how well would you say you perform in terms of business outcomes such as profit, turnover or other relevant measures of performance?'

This question did not appear to offer an improvement on the original. Eleven out of 19 management representatives gave no answer to this question. Whilst those from public administration establishments felt able to answer MM403 by referring to their annual budgets and financial planning arrangements, they did not feel that this new question applied because of the use of terms such as ‘business outcomes’ and ‘profit’. Similarly, those from non-profit organisations felt this new question was not applicable to their situation.

**Interpretation**

MM402 and new question

The reliability of responses to these questions was low as not many knew about their own absence and OSH performance figures or those of other establishments. In terms of absence (MM402), just under half stated that they believed theirs was quite low or very low compared with other establishments in their sector, with the rest either not giving an answer or stating that it was about average. No one thought their levels of absence were higher than in other similar establishments.
Responses to the new question on OSH performance did not differ greatly. The vast majority of respondents either gave no answer or rated their OSH performance as about average. Only three management representatives, all of whom worked full time on OSH, thought that they performed above average.

**MM403 and new question**

MM403 received the most responses out of the questions in this section, and responses varied. Around half of the management representatives believed that their economic situation was quite good, with one rating it as very good. Two management representatives rated their economic situation as quite bad, with the remainder either giving no answer or stating that it was average. As mentioned above, the new question did not offer an improvement on the original as over half of the management representatives felt unable to answer it. Of the eight management representatives who did answer the new question, six rated their performance in business outcomes as quite good and two as average.

### 1.4 Collecting health and safety performance data

Only seven of the 19 establishments completed the proforma in advance of the interviews, with most filling in the data following it. Only two of them provided complete data. Two establishments did not hand in any data at all, not even on request.

The figures given on the number of individuals involved in OSH activities and the hours spent on these differed in some cases from the figures given during the interview. Management representatives found it especially difficult to estimate working time and tended not to know how long employee representatives spent on OSH. In the interviews, even employee representatives themselves were unclear how much time they spent on OSH as they tended not to see their OSH duties as discrete tasks. This was observed for both works council members as well as OSH delegates. Sometimes the interviewees did not include time spent in meetings (e.g., safety committee meetings) within their total number of hours. One management representative from a large producing establishment said that around 100 members of management and 40 workers were involved in OSH. This was because team supervisors were responsible for carrying out risk assessments and they had 34 OSH delegates plus members of the works council.

Some management representatives said that it was difficult for them to complete the section on expenditure, and thought that their finance department would be best placed to answer these questions. Some knew at least about the costs of any services used, but often figures on the amount spent on PPE were rough guesses.

The management representatives often struggled to answer the questions on sickness absence, as this information tended to be held by their human resources department. Furthermore, internal statistics on absence did not always differentiate between management and employees. However, a number of management representatives were able to complete questions on absence due to work-related accidents, although one required clarification on whether this should include accidents occurring during commutes to work (in Germany these are officially counted as work accidents). In addition, it was not clear for this individual whether he should include reportable accidents only or all accidents. In Germany, only accidents with at least three days of sickness absence need to be officially reported, but some establishments include other incidents in their accident log.

### 1.5 Summary and conclusions

In this section, we draw out the general conclusions and key points about the questionnaire that emerged from the interviews in Germany.

Some technical issues emerged in different sections of the questionnaire. In addition to specific issues with individual questions, there were some common themes concerning:
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- Use of terms which could be interpreted in multiple ways.
- Interviewees referring to different types of checks in questions about risk assessment.
- Some questions and items were not clearly formulated because they contained alternative options within a single statement (e.g., whether the establishment carries out risk assessments or other measures, whether training is sufficient or more would be desirable).
- Translation issues that meant questions were unclear and not equivalent to the English version.

The main technical issues for each section of the survey are summarised in turn below.

### Approach to management of health and safety

Questions MM155/ER200 on policies did not work very well in the German establishments. Answers were broad ranging and referred to almost anything that was a written document on OSH, such as risk assessment documentation, legal texts and checklists provided by external service providers, as well as policies and management systems. Questions MM156/ER202 on the impact of policies was better understood but highly dependent on the type of document referred to previously. Some interviewees rated the OSH policy in their establishments as having only ‘some’ impact because it was a piece of paper; impact in these establishments was attributed instead to the practical implementation of OSH procedures.

### Levels of concern with OSH risks

Problems in questions MM200/ER205 on level of concern with certain risks were in part due to translation issues. The term ‘concern’ in the response options to the questions was translated into ‘Thema’, which denotes ‘topic’ and, depending on the context, can mean ‘discussion topic’. As such, interpretations of the question varied. In addition, the response options in the scale are not equivalent in the German and English versions because ‘some concern’ has been translated to ‘weniger wichtiges Thema’ which means ‘less important issue’ and has a more negative connotation. Several interviewees spontaneously mentioned that some areas were ‘very important’ as opposed to just ‘important’ in their establishment, so would have liked an additional response option of ‘sehr wichtiges Thema’.

### Approach to risk assessments

In general, the questions on risk assessment were well understood, but the interviews raised some technical issues concerning understanding. On answering questions MM161/ER207, management and employee representatives often referred to different types of checks in their answers. To aid clarification it may be useful to replace this question with separate questions asking about workplace risk assessments, risk assessments of activities and other prevention measures. Question MM163 (on occasions which lead to a risk assessment) worked well but many of the positive responses to ‘following requests from employees’ were hypothetical. Question MM164 (on areas routinely considered in checks) also worked well, but ‘the way work is organised’ was not always well understood and sometimes seen to be the same as ‘equipment and the working environment’.

With regard to ER209, the term ‘Mitspracherecht’ in the German version of the questionnaire could be interpreted as asking either whether the employee representative has a legal right to decide on these issues or is consulted on these issues. This confused some interviewees so should be clarified.

### Drivers of and barriers to management of health and safety

Not all items for question MM171 on drivers and question MM172 on barriers were well understood by the management representatives. In MM171, items 1 (fulfilment of legal obligation) and 6 (pressure from the labour inspectorate) were not always clearly differentiated. This may relate to the fact that in Germany the Social Accident Insurance Institution carries out inspections and issues its own rules on OSH prevention; these rules were sometimes perceived as representing ‘pressure from the labour inspectorate’. Items 2 (requests from employees), 3 (staff retention and absence) and 4 (economic performance) often needed explanation before their meaning was understood.
With regard to MM172, item 5 (culture of the organisation) was not always clearly differentiated from item 2 (a lack of awareness). Item 6 (the sensitivity of the issue) confused a number of the management representatives who could not understand why a sensitive issue necessarily caused a difficulty. This may be partly due to the fact that the word 'sensitivity' has been translated in the German version to 'Brisanz' which literally means 'explosiveness'.

- **Worker participation and involvement**

  The questions for employee representatives on worker involvement and participation did not pose any major problems, although some mistakenly considered their works council a joint committee of workers and management on OSH, which affected responses to both questions ER102 and ER107.

- **Resources and training in OSH issues**

  The questions for employee representatives on resources and training issues worked well. However, some did not know what sort of training their colleagues had received or whether the training they had received was specific to their employee representative role or offered to all employees. Question ER160 on whether the training is sufficient includes two contradictory statements, so could be improved by asking for agreement with a single statement. It was also clear from the interviews that satisfaction with training did not necessarily correlate with the quantity of training received. From the point of the interviewer, the filtering for question ER162 may need to be altered to ensure that anyone who has received only a little training is asked why.

- **OSH and organisational performance**

  The questions on OSH and organisational performance did not work very well. In many cases answers were based on personal opinions rather than hard evidence, so the reliability is questionable. Generally respondents found it easier to answer the old questions than the new versions, which were not seen to offer any improvements.

- **Collecting data on OSH resources and performance**

  Only about one third of the enterprises provided the complete data in the proforma. The form was not well accepted and some of the data were not easily available for the representatives, despite the fact that they had plenty of time to complete the forms.
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