

# Germany's approach to supporting occupational safety and health compliance: the role of labour inspectorate and prevention services

## Summary

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the role of labour inspectorate and prevention services

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This report was commissioned by the European Agency for Safety and Health at Work (EU-OSHA). Its contents, including any opinions and/or conclusions expressed, are those of the authors alone and do not necessarily reflect the views of EU-OSHA.

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This report<sup>1</sup> is part of a European Agency for Safety and Health at Work (EU-OSHA) project on the topic 'Improving compliance with OSH regulations'.<sup>2</sup> It contains the main findings of the study on the role of the labour inspectors of the federal state occupational safety and health (OSH) authorities and the statutory accident insurance institutions (*Unfallversicherungsträger*, UVTs) as well as the external (private and public) prevention services in supporting OSH compliance in Germany. This study includes a country report, as well as six case studies<sup>3</sup>. In addition, two policy briefs<sup>4</sup> were developed on the role of the labour inspectorate and prevention services in supporting compliance. The results are based on a comprehensive literature review and qualitative interviews conducted with representatives of the Federal Government, the federal states, UVTs, social partners and academia.

## Research pointers: Labour inspectorates and monitoring practices

The OSH system in Germany is characterised by a dual structure. On the one hand, state authorities in the federal states are responsible for monitoring compliance with OSH regulations in companies, advising employers and penalising violations. On the other hand, the statutory UVTs operate in accordance with Social Code VII with the aim of preventing accidents at work, occupational illnesses and health risks in the workplace, restoring health and performance after accidents at work or occupational illnesses, and compensating insured persons or their surviving dependents with cash benefits. Both organisations have a monitoring function and have been obliged to cooperate with the Joint German Occupational Health and Safety Strategy (GDA)<sup>5</sup> since 2008.

Differences in the role of labour inspectors from the federal states compared to the labour inspectors of the UVTs relate to their different legal basis, their distribution of tasks and different priorities. Although the labour inspectors in Germany have limited resources — the same for the federal states and the

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<sup>1</sup> The full report is available at: <https://osha.europa.eu/en/publications/germanys-approach-supporting-occupational-safety-and-health-compliance-role-labour-inspectorate-and-prevention-services>

<sup>2</sup> See: <https://osha.europa.eu/en/themes/good-osh-is-good-for-business/improving-compliance-osh-regulations> (last retrieved 26 October 2023).

<sup>3</sup> The six case studies are referred to continuously throughout the report. The cases are numbered as 'case DE1', 'case DE2', etc., DE referring to Germany. This is further explained in the chapter on methodology.

See EU-OSHA - European Agency for Safety and Health at Work, *Germany's Tele-OSH approach to ensuring consulting: supporting occupational safety and health compliance (Case DE1)*, 2024. Available at:

<https://osha.europa.eu/en/publications/germanys-tele-osh-approach-ensuring-consulting-supporting-occupational-safety-and-health-compliance-case-de1>

See EU-OSHA - European Agency for Safety and Health at Work, *The Prevention Process Management System (PPMS) in Germany: supporting occupational safety and health compliance (Case DE2)*, 2024. Available at: <https://osha.europa.eu/en/publications/prevention-process-management-system-ppms-germany-supporting-occupational-safety-and-health-compliance-case-de2>

See EU-OSHA - European Agency for Safety and Health at Work, *Germany's Alternative demand-based supervision project AB+: supporting occupational safety and health compliance (Case DE3)*, 2024. Available at: <https://osha.europa.eu/en/publications/germanys-alternative-demand-based-supervision-project-ab-supporting-occupational-safety-and-health-compliance-case-de3>

See EU-OSHA - European Agency for Safety and Health at Work, *Initiative 'Micro enterprises and risk assessment (KuG 2)' in Germany: supporting occupational safety and health compliance (Case DE4)*, 2024. Available at: <https://osha.europa.eu/en/publications/initiative-micro-enterprises-and-risk-assessment-kug-2-germany-supporting-occupational-safety-and-health-compliance-case-de4>

See EU-OSHA - European Agency for Safety and Health at Work, *Occupational safety and health (OSH) for non-OSH professionals in Germany: supporting occupational safety and health compliance (Case DE5)*, 2024. Available at: <https://osha.europa.eu/en/publications/occupational-safety-and-health-osh-non-osh-professionals-germany-supporting-occupational-safety-and-health-compliance-case-de5>

See EU-OSHA - European Agency for Safety and Health at Work, *Germany's programme for 'Safe handling of carcinogenic hazardous substances (KEGS)': supporting occupational safety and health compliance (Case DE6)*, 2024. Available at: <https://osha.europa.eu/en/publications/germanys-programme-safe-handling-carcinogenic-hazardous-substances-kegs-supporting-occupational-safety-and-health-compliance-case-de6>

<sup>4</sup> See EU-OSHA - European Agency for Safety and Health at Work, *Labour Inspectorate in supporting occupational safety and health compliance in Germany*, 2024. Available at: <https://osha.europa.eu/en/publications/labour-inspectorate-supporting-occupational-safety-and-health-compliance-germany>

See EU-OSHA - European Agency for Safety and Health at Work, *Prevention services in supporting occupational safety and health compliance in Germany*, 2024. Available at: <https://osha.europa.eu/en/publications/prevention-services-supporting-occupational-safety-and-health-compliance-germany>

<sup>5</sup> The Joint German OSH Strategy (GDA) was launched to improve OSH in Germany. A special feature of the German strategy is that it is embedded in the German OSH Act, which called for joint work by the Federal Government, the federal states and the OSH authorities to enable effective and uniform OSH and to raise awareness of and motivate companies to engage in OSH.

UVTs — all experts surveyed consider the monitoring activities to be essential for supporting compliance. The possibility of an inspection alone encourages companies to pay more attention to compliance.

Nevertheless, both labour inspectorates (state and UVT) have reservations about the effectiveness and efficiency of compliance audits. On the one hand, there are hardly any scientific studies on the actual efficiency of the current procedures, and on the other hand, the lack of human resources is a major problem for the implementation of an effective compliance audit.

Sanctions are a central and necessary tool for promoting compliance. The imposition of fines is an essential instrument for bringing about compliance-compliant behaviour on the part of companies. Nevertheless, sanction proceedings are repeatedly discontinued by the courts due to a lack of sensitivity to long-term causal relationships in accident and illness cases. An enormous bureaucratic burden also hinders the smooth imposition of sanctions by labour inspectors.

In this constellation, there is an imbalance that leads to sanctions being avoided in certain situations, as the high bureaucratic effort involved in imposing sanctions acts as a deterrent.

The statutory UVTs advocate a balanced relationship between sanctions and counselling, which is based on different understandings of the roles of federal state OSH authorities and UVTs. While federal state OSH authorities focus on monitoring companies, advising on compliance with legislation and, if necessary, imposing sanctions, the UVTs advocate that counselling comes first and monitoring and punishment play an important, but not primary, role.

Digitalisation processes are changing monitoring activities. Labour inspectors of the UVTs in particular are increasingly being supported in their day-to-day work by digital assistance systems. Such assistance systems, which are often available in the form of apps, simplify the selection of companies to be inspected, for example. They offer labour inspectors risk-oriented (and sometimes geocoded) key figures and thus support them in deciding which business should be visited next. In addition, the documentation and archiving of operational and inspection data is digitalised and thus compressed for data exchange. However, such assistance systems are not yet in widespread use.

With the extension of the OSH Act (ArbSchG) by the OSH Inspection Act (ArbSchKG), the federal state OSH authorities are required to carry out a minimum inspection quota of 5% of companies in the respective federal state per year.<sup>6</sup> This quota presents the federal state OSH authorities with organisational, structural and personnel challenges.

The OSH Inspection Act (ArbSchKG) has also established data transfer between the federal state OSH authorities and statutory UVTs in law. The reciprocal transfer of specified information on company inspections is intended to strengthen cooperation between the federal state OSH authorities and UVTs within the framework of the GDA.

New approaches and methods are required on the part of the federal state OSH authorities and UVTs in order to be able to react appropriately to flexible working models and employment relationships in companies.

In the third GDA period (2021-2025), the aim is to carry out 200,000 company inspections, which are to be undertaken by federal state OSH authorities and UVTs. The inspections are to be documented and exchanged between the institutions using a standardised 'basic data sheet' and corresponding 'specialist data sheets'. The 150,000 companies will be selected jointly according to agreed criteria. The remaining 50,000 visits will be selected at random. At least 10% of the companies will be surveyed using the specialised data sheets on the key topics of this GDA period.

Safety and health at work are currently not sufficiently valued in many companies and have a pronounced image problem. The prevailing perception is that OSH is seen either as a bureaucratic burden or as a cost factor, rather than as an essential component of a healthy and productive working

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<sup>6</sup> While OSH legislation is enacted at national level, the authorities of the federal states are responsible for enforcing the legislation. The specific principles for the federal state OSH authorities are regulated in the 'Act on the Implementation of Measures of Occupational Safety and Health to Encourage Improvements in the Safety and Health Protection of Workers at Work', or 'OSH Act' (ArbSchG), while the statutory accident insurance institutions (UVT) receive their mandate via the Social Code VII. On 1 January 2021, important aspects of the OSH Act were extended by the 'Act on Improving Occupational Safety Enforcement', or 'OSH Inspection Act' (ArbSchKG) (see above).

environment. This negative perception can make the implementation of measures more difficult and reduce the motivation of companies to actively promote the health and safety of their workers.

## Research pointers: Prevention service

The prevention services in Germany are provided by various players:

- Internal prevention services: OSH personnel employed in the companies.
- External prevention services:
  - external freelance/self-employed occupational safety specialists ('Fachkraft für Arbeitssicherheit' (Sifa)) and occupational physicians;
  - external services of occupational physicians and/or occupational safety specialists (Sifa);
  - OSH services coordinated by the UVTs; and
  - OSH services provided by the UVTs.
- Via the catalogue of prevention services offered by the UVTs.

The following research pointers arise for Germany.

Micro and small enterprises (MSEs) in particular face specific difficulties when it comes to the implementation of OSH. In addition to the scarcity of resources in the companies, a lack of expertise (partly due to a shortage of occupational physicians) presents the companies themselves with difficulties in implementing OSH. There is no legal clarity about the consequences for companies if, for example, OSH consulting cannot be guaranteed due to the unavailability of occupational physicians.

In Germany, initiatives and projects to analyse the effectiveness and efficiency of preventive measures are currently only being pursued to a limited extent; findings are available from older studies. Scientific studies on compliance with OSH regulations are still largely lacking. A common concern in the areas of OSH and compliance research is that there is no measurable indicator for the status and effectiveness of OSH in companies.

The demand in the field of occupational medicine cannot be met with the available resources. From the perspective of all OSH actors, the perceived lack of support for small and medium-sized enterprises (MSEs) is a key motivation for the further development of prevention services. This issue gives rise to solutions and initiatives that should enable customised support (see case studies) especially to MSEs.

The interviews show that compliance tends to be achieved through company- and sector-specific references to health and economic benefits of the rules, rather than by simply referring to the rules themselves. Health and safety should not be guaranteed by mere compliance with legal regulations, but rather OSH must be integrated into the company organisation and the company processes must be taken into account.

## Policy pointers: Labour inspectorates and monitoring practices

### Digitalisation of inspection objects and tools

The digitalisation of inspection activities and inspection tools (apps, artificial intelligence (AI), etc.) is considered a key area and should increasingly become the focus of future research projects. They must be fit for the changing world of work.

### Pursue minimum standards for inspections throughout Germany

Uniform inspection procedures lead to standardised data, better understanding of OSH terminology and comparable compliance audits. Common minimum standards can also be utilised at EU level. Upcoming research projects must clarify, for example, whether the same aspects fall under 'compliance audits' in the EU-wide understanding.

### Introduction of autonomous self-disclosure procedures by companies

During the COVID-19 pandemic, autonomous control mechanisms in the form of organisational checks, checklists and mandatory self-disclosure have been tested by necessity and have generated a positive response. In view of the enormous lack of human resources, there is also a need to introduce further

'self-disclosure procedures' or 'company reporting systems' that relieve the burden on monitoring activities by allowing companies to provide the necessary information themselves.

### **Qualification of labour inspectors**

As part of the third GDA period, qualification and training modules were created to support, among other things, standardised operational 'system assessments' (inspections with focus on OSH organisation and risk assessment) by labour inspectors. Similar measures are also conceivable at EU level when it comes to the introduction and development of standardised qualification modules for labour inspectors in European countries. In addition to the common standards for training programmes that have already been published by the European Commission, further practical qualification and learning modules can be developed.

### **Data exchange and communication across jurisdictions/institutions**

The exchange of data within Germany between the OSH authorities of the federal states and the UVTs has been placed on a new basis with the OSH Inspection Act. Empirical findings are still lacking for further recommendations in this context. A need for political discussion arises from the data protection obstacles identified in the transfer of data beyond the borders of authorities or (federal) states. This problem cannot be addressed solely from an OSH perspective.

## **Policy pointers: Prevention services**

### **Addressing and advising MSEs**

New approaches must be tried out and evaluated. The operational benefits of safety and health at work must be made immediately clear and linked to other operational objectives. Campaigns and training materials must be better oriented towards the MSE target group (e.g. comprehensibility, relevance to action, linguistic diversity).

### **Interaction between different prevention services**

In order to ensure a coordinated approach to prevention, the synergy of research, the consideration of new (labour) scientific findings in the regulations, as well as the qualification of external and company-internal OSH players (specialists, representatives, managers, etc.) and workers and the practical preparation of requirements for OSH in companies in action is essential.

### **Digital tools for company support (in accordance with the OSH Expert Act (ASiG))**

The use of digital tools (video consultation, etc.) for occupational medical and safety-related support is recommended to counteract the shortage of company medical resources and reach a larger number of companies.

### **Procedure oriented towards company needs – cross-professional/expanding**

The legally required OSH support should not be focused purely on technical issues/professions (engineers, technicians or foremen) and occupational physicians, as has been the case to date. It is beneficial for OSH if the expertise of different professional disciplines is utilised.

## **Policy pointers: Monitoring practices and Prevention services**

### **Research on in-company and external OSH situation**

Research has revealed a lack of basic data on the activity and perceptions of safety specialists (Sifa), occupational physicians and labour inspectors and their contribution to supporting compliance. The further accumulation of national reports and uniform evaluation systems are necessary to further enhance the current data situation (e.g. on the actions, perception and efficiency of OSH safety specialists (Sifa), occupational physicians and labour inspectors) and to form the basis for the derivation of targeted OSH programmes.

### **Work design competences and health competences**

The changing nature of work implies that employers and managers have less and less influence on the shaping of working conditions and therefore on the safety and health of workers. As a result, the

promotion of the workplace and work environment design competences as well as health competences are becoming more important.

### **Countering image problems and barriers to implementation in OSH**

Additional research programmes on implementation gaps, barriers to action and motivation problems in OSH are crucial to develop effective strategies for improving active OSH in companies. The economic impact of OSH measures on productivity, worker satisfaction and sickness costs can be further substantiated by scientific studies so that companies can be convinced of the long-term profitability. Effectively utilised and authentically written advertising campaigns can contribute to improving the image of OSH.

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