

LABOUR INSPECTORATE IN SUPPORTING OCCUPATIONAL SAFETY AND HEALTH COMPLIANCE IN GERMANY

Background

Promotion of effective occupational safety and health (OSH) practices is a key element of safer and healthier workplaces. Improving arrangements and practices for managing OSH across a whole range of industry sectors and firm sizes — large, medium and small — is stimulated, supported and sustained by a range of institutional actors and processes both internal and external to firms. Scientific research highlights, among others, the critical role that state regulators for OSH, such as labour inspectorates but also prevention services, can play (EU-OSHA 2021). This policy brief is part of a research conducted in Germany to provide further insight into this topic.¹

This policy brief focuses on the role, function and future of the labour inspectors of the federal state OSH authorities and the labour inspectors of the statutory accident insurance institutions (*Unfallversicherungsträger*, UVTs). It presents the challenges they face in being able to fulfil their inspection role and initiatives and policy pointers that could help them in the process of overcoming these challenges.

Introduction

The OSH system in Germany is characterised by a dual structure. On the one hand, the federal state OSH authorities are responsible for monitoring compliance with OSH regulations in companies, advising employers and penalising violations. On the other hand, the UVTs operate in accordance with Social Code VII (SGB 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 (Bundestag der Bundesrepublik Deutschland 07.08.1996).

Both organisations (federal state OSH authorities and UVTs) work with labour inspectors and have a monitoring function. Also, they have been obliged to cooperate within the framework of the Joint German Occupational Health and Safety Strategy (GDA)² in 2008 (see OSH Act (ArbSchG) § 21 sections 3 and 4, as well as SGB VII § 20).

When it comes to the labour inspectors of the UVTs, apart from the more traditional role of ‘inspection and monitoring’, they also assume a ‘pilot function’ (*Lotsefunktion*): in the course of monitoring and advising on OSH in accordance with § 17 of the Social Code VII (SGB VII), they are the main contact persons for prevention issues and can act as an interface to external social service providers such as statutory health and pension insurance, the federal employment agency, or the integration and inclusion offices.

Challenges related to labour inspectors’ activities

Labour inspectors of the federal state OSH authorities and labour inspectors of the UVTs face various challenges when it comes to their monitoring activities. Still, some of these challenges are also encountered at EU level.

The rapid digitalisation of the world of work in recent years has brought about profound changes. Companies are increasingly relying on flexible working models, making traditional monitoring and

¹ The research report – on which this policy brief is based on – is available at: <https://osha.europa.eu/en/publications/germanys-approach-supporting-occupational-safety-and-health-compliance-role-labour-inspectorate-and-prevention-services>

² See: <https://www.gda-portal.de/>

control methods less effective. In view of limited human resources and the increasing flexibility of work locations and hard-to-access work environments such as home offices, systematic and innovative adaptation processes in digital monitoring action are necessary.

Due to its duality and multitude of different institutions and actors, the German OSH system has a highly complex structure that brings together divergent interests and conceptual understandings. While the GDA mediates between the federal state OSH authorities and the UVTs by focusing on common topics or priorities and the standardisation of monitoring action (by the development of common assessment processes), other actors continue to emphasise the core and complementary competences of both sides and question the meaningfulness of the strategy.

Both the exchange of internal company data and the exchange of data on company inspections between different German OSH institutions are held back by data protection limitations and legal, organisational and technical difficulties (e.g. IT incompatibilities).

Traditional forms of work organisation are increasingly being replaced by new working models. As a result, changes in the world of work and in the working environments also require an adaptation of monitoring/supervising and prevention methods. New forms of work, such as flexible working hours and mobile working bring about changed requirements that must be adequately considered in existing procedures and inspection methods of the labour inspectors.

There is a need to collect more data on the effectiveness of the monitoring activities of labour inspectors. In practice, labour inspectors face a variety of challenges, such as changes in the structure and organisation of work and labour markets, as well as policy changes that determine the focal points of their work and how it is resourced. Still, there is a limited amount of data available and a lack of research projects dealing with the efficiency of labour inspectors facing this variety of challenges in general.

A shortage of human resources is evident both in relation to the federal state OSH authorities and the UVTs, and in relation to the occupational health workforce. This shortage and lack of sufficiently qualified professionals is worrying, as it affects the effectiveness and efficiency of monitoring and preventive action in the work environment. Both the federal state OSH authorities and the UVTs face the challenge of managing their monitoring and advisory activities with limited human resources.

The mere existence and potentiality of sanctions can be enough to have an impact on the compliance of companies. Financial sanctions must be set high enough to be able to function as a deterrent instrument of the OSH authorities. In general, however, it has been shown that it is not too high fines that are the trigger for 'resistance to regulation' on the part of labour inspectors, but rather the bureaucratic effort involved in imposing fines — especially in relation to the available resources.

Initiatives and policy pointers to overcome these challenges

Digitalisation of inspection

There is an urgent need to improve IT-based equipment for monitoring and control activities in order to be able to respond adequately to the challenges of the modern world of work (Seiler et al. 2021). This can be done, for example, through modified databases that support the exchange of data between the various OSH institutions or through increased use of artificial intelligence (AI) in application systems. With the help of algorithms and AI technologies that can access various data sources, the selection of companies to be visited can be supported in the best possible way. The calculation of certain risk indexes is automated and indicates to the labour inspectors exactly which companies should be visited and where they are located in the area of responsibility by means of 'geocoding' (Keller et al. 2022). At the same time, the simplified data collection and reporting will make more efficient and sustainable use of limited resources.

For example, the Prevention Process Management System (PPMS)³ developed by the German Social Accident Insurance Institution for the foodstuffs and catering industry (BGN) is another digital assistance system and is intended to increasingly facilitate the monitoring activities of BGN labour inspectors (Keller et al. 2022). On the one hand, it provides a wide range of operational information and, on the other hand, enables text- as well as photo-based documentation of the respective company visit. In

³ More information is available at: <https://osha.europa.eu/en/publications/prevention-process-management-system-ppms-germany-supporting-occupational-safety-and-health-compliance-case-de2>

addition, the PPMS offers users further details about the company: the history of the company's accidents and occupational illnesses can be called up, as can previous company inspections or even participation in prevention-related training measures. A particular strength of the system is its 'geocoding'. This is a map and radius search that enables labour inspectors to sort all the companies in their area of responsibility according to various criteria ('company size, sector, risk index, accident frequency') and to filter them.

Minimum standards for inspections across Germany

The coordination of the contents of an inspection with the so-called system assessment via the GDA is directed to the monitoring activities of the labour inspectors of federal OSH state authorities and the labour inspectors of the UVTs. Every GDA system assessment must follow the specific guidelines on the 'organisation of OSH' and on 'risk assessment'.

These guidelines of the system assessment have created an important basis for action by the labour inspectors of the federal state OSH authorities and the UVTs. The use of a common basic data sheet (and, if necessary, specialised sheets) not only leads to a more uniform data collection but also to a common understanding of terms (understanding and interpretation) and the setting of minimum standards. This form of inspection is explicitly linked to the compliance audit.

Qualification and training of labour inspectors

In the context of the GDA, the labour inspectors of the federal state OSH authorities and the UVTs are required to pursue a coherent strategy for evaluating companies via the system assessment. In addition to the agreed basic principles in the form of GDA guidelines, further qualification and training modules were drawn up as part of the third GDA period. These modules serve, among other things, the purpose of supporting standardised system assessments by labour inspectors.

These modules contain tutorials, basic and specialised data sheets, checklists, specific instructions for action, information sheets or even text modules for announcement letters. The uniform and dedicated monitoring of risk assessment and OSH organisation as part of the system assessment is intended to increase compliance in the companies.

The following three work programmes were set up for this purpose and targeting labour inspectors and workers of the companies as well:

- The work programme 'Musculoskeletal Strain' (MSS/MSB) strengthens the prevention work on musculoskeletal strains and risks by using an integrated approach – through training, qualification, counselling and tips on behavioural prevention for workers but also labour inspectors.
- The work programme 'Working together and systematically for good work design in the case of mental stress - risk factors and potential for optimisation' (Psyche) focuses more on psychosocial risk factors and their impact on the mental health of workers. For this purpose, labour inspectors are to be trained to improve their knowledge and skills on the topic.
- The 'Safe handling of carcinogenic hazardous substances' (KEGS) work programme is aimed at companies that come into contact with one or more carcinogenic hazardous substances in their work. For this purpose, the companies are sensitised and (existing) prevention approaches are systematised.

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, further practical qualification and learning modules can be developed to deal with other challenging topics.

Data exchange across jurisdictions/institutions

The exchange of data within Germany between the OSH authorities of the federal states and the UVTs is based on new principles of action. Accordingly, empirical findings are still lacking for further recommendations in this context.

The need for policy discussion arises from the data protection obstacles that have been identified in the transfer of data across authorities or national borders. This problem cannot be dealt with singularly from the perspective of OSH as it goes beyond the OSH policy area.

Research on effectiveness

The collection of data regarding the efficiency and effectiveness of labour inspectors and their monitoring activities must be improved. Although there already are some noteworthy data, ensuring their regular updates is crucial. To bolster monitoring activities of labour inspectors (federal state OSH authorities/UVTs), there must be a nuanced understanding of their roles, functions and activities. Beyond the basics, evaluating the efficiency, quality and impact of their work on compliance and OSH is essential. Regular updates and a detailed understanding of their work will be instrumental in shaping policies that prioritise OSH.

Nevertheless, Germany already has several research institutions in this area. For example, the departmental research of the many different OSH players, such as the Federal Institute for Occupational Safety and Medicine (BAuA) (subordinate to the Federal Ministry of Labour and Social Affairs (BMAS)) or the institutes of the German Social Accident Insurance (DGUV) (e.g. Institut für Arbeit und Gesundheit der Deutschen Gesetzlichen Unfallversicherung (IAG), Institut für Arbeitsschutz der Deutschen Gesetzlichen Unfallversicherung (IFA), provide a great deal of scientific expertise, which is used to further develop the efficiency and effectiveness of the monitoring activities of labour inspectors in Germany.

Digitalised modernisation of sanctioning procedures

Nevertheless, sanctions are an effective means of promoting compliance. The threat of sanctions can lead to companies intensifying their compliance and safety and health efforts. The mere possibility of sanctions leads to increased OSH-related behaviour among companies. In Germany, the labour inspectors of the federal state OSH authorities have a stricter understanding of sanctions, whereas the labour inspectors of the UVTs tend to favour cooperative advisory approaches. Nevertheless, there is a need to reduce the bureaucratic burden of sanctioning misconduct under OSH law. Here, the increased transition to digitalised modernisation of sanctioning procedures should be accelerated and carried out more promptly.

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Authors: Clarissa Eickholt, Anja Winkelmann, Magnus Beyrer and Lars Fritzsche.

Project Management: Lorenzo Munar and Dietmar Elsler - European Agency for Safety and Health at Work (EU-OSHA).

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