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Institute for Work & Health

Germany

Description of the organization of the occupational health and safety system and the delivery of prevention services

Report to the Expert Advisory Panel
Occupational Health and Safety Prevention and Enforcement System

Ontario Ministry of Labour
Germany

There are approximately 41 million economically active adults in Germany.

The “dual OSH system”, in which the OSH administrations of the sixteen regional governments in Germany and the accident insurance institutions hold joint responsibility for workplace safety and health, has existed in Germany for nearly 125 years. Germany was the first nation to establish a workers' compensation scheme (1884).

Work accident insurance funds, known as "Berufsgenossenschaft" (BGs) are organized by economic sector, operate nationally, and each is governed by the social partners (representatives of workers and employers). The former central federation of the BGs, HVGB, merged with the accident insurance funds covering public sector workers in 2007. The amalgamated federation is known as DGUV. The 13 BGs serving private sector employers are in the process of consolidating to 9 BGs by the end of 2010. A similar consolidation is in progress for the funds insuring public sector workers.

1.0 Organization and Structure of OHS Prevention Services

1.1 Key Elements of Legislative Authority
There are two levels of occupational health and safety regulation: legislation at the federal level, executed by regional state authorities (Laender) and internal accident prevention regulations established by the BGs.

The most recent significant reform of legislation was adopted in November 2008 (the act for the modernization of the accident insurance system). This reform included statutory provisions for a 'Joint German OSH Strategy', obligating the German federal government, the sixteen regional governments and the accident insurance institutions to hold joint and equal responsibility for a national OSH strategy.

1.2 Responsibility for Prevention Services
Labour inspectors employed by the regional Laender authorities and the labour inspectors employed by the BGs are jointly responsible for the enforcement of federal OHS regulations and standards. Both types of inspectors have the power to perform worksite inspections. Inspectors employed by the regional governments have broad enforcement responsibilities in public health, public safety and occupational health protection. DGUV estimates that approximately 10% of the regional government inspection workforce is devoted to occupational health and safety.

1.3 Source of Funding and Expenditures on Prevention Services
Prevention services provided by the regional Laender authorities are funded by government appropriation. Prevention services provided by the BGs are funded by employer insurance premium contributions.
In 2008, total expenditures by the BGs on labour inspection, enforcement and compliance services was €518 million and on education, training and workplace consulting was €139 million (expenditures on occupational health services of €88 million are excluded from the following table). Total prevention expenditures of €892 million for prevention services represent 8.5% of total premium revenues of €10,472 million. Prevention services expenditures represent €24.6 per full-time worker (CAD $37 per worker, converting currency at 1 Euro to 1.5 CAD).

In 2008, total expenditures by the 16 regional governments on labour inspection, enforcement and compliance services (excluding inspection activities associated with public health and public safety) is estimated to be approximately €100 million.

1.4 Prevention Service Activities
The BGs comprising the member insurance funds of DGUV employ approximately 2,900 labour inspectors and technical consultants. BG inspectors performed 560,000 field visits and issued 900,000 orders or citations in 2008. A total of 3,200 labour inspectors are employed by the 16 regional governments in Germany. Regional government inspectors performed 332,000 field visits and issued 614,000 orders or citations in 2008, but mainly in other areas than typical OSH.

Training and consulting staff employed by BGs provided seminars for approximately 400,000 participants in 2008. The duration of seminars range from half a day up to a number of weeks.

Prevention services within the BGs are organized by economic sector. There is a regional administration of prevention services.

1.5 Expenditures on Research
The Federal Institute for Occupational Safety and Health (BAuA) is government research institution that advises the Federal Ministry of Labour and Social Affairs in all matters of safety and health and of the design of working conditions. The operating budget for BAuA in 2007 was €45 million. DGUV’s expenditure on research is approximately €45 million (W Eichendorf, 2010). Combining the investments represented by BAuA and DGUV, research expenditures in Germany represent 9.8% of total prevention services expenditures.

2.0 OHS Prevention Model

2.1 OHS Standards
Over the past 10 years, German federal OHS standards have moved from a historic emphasis on prescriptive regulatory standards to performance-based standards. Federal legislation defines universal OHS standards applicable to all workplaces and implements the requirements of European Directives. Within the federal framework, more specific regulatory standards are established by BGs (“Unfallverhütungsvorschriften”), for example, specification of the type and number of safety and health advisors required within companies. German social security law (§ 15 SGB VII) explicitly provides this regulation-making authority by DGUV and the BGs. There are currently 55 BG regulations in force.
In addition to legally binding regulation, DGUV also specifies ‘rules’ and ‘guidance standards’ to support workplace practices under performance-based standards.

2.2 Regulatory Amendment Process
There is no legislated requirement that OHS legislation be reviewed at mandated intervals. OHS legislation and standards, at both the federal level and within the BGs, are regularly reviewed and updated. Since 2008, all OSH measures executed in the framework of the new Joint German OSH Strategy will be evaluated to assess the impact of regulatory standards on workplace prevention practices.

2.3 Regulatory Requirement for Worker Participation and Worker Training
Workplace OHS committees are required in workplaces with more than 20 employees. Workplace safety representatives are required to be appointed in all firms, including small employers. There are 521,000 workplace representatives currently in Germany. The BGs provide training of workplace safety representatives free of charge.

Employers in Germany are required by statute to provide training to supervisors and employees on measures to prevent occupational accidents, occupational diseases and work-related health hazards and the provision of first aid. The employer has the legal obligation to appoint company physicians and safety professionals which are to support and advise the employer. The work accident insurance funds (BGs) have the statutory responsibility to define training standards and to provide skills training in all aspects of safety and health in the workplace and in educational institutions. In addition to training provided by the BGs, private training companies are licensed to provide training services.

2.4 Economic Incentives
DGUV applies experience rating in establishing insurance premiums to be paid by individual employers within a rate group classification. The Germany system uses the terms ‘bonus’ to indicate a premium rebate and ‘malus’ to indicate a premium surcharge. The range of bonus/malus adjustments may be as high as 50% of the rate group base premium. All BGs apply experience rating, but some BGs only adjust premiums via bonus adjustments and other BGs only adjust premiums via a malus adjustment. The gross value of bonus and malus adjustments was €470 million in 2008).

DGUV makes moderate use of economic incentives to encourage the adoption of appropriate prevention practices. The total value of economic incentives (rebates or awards) provided to reward OHS performance in 2008 was €66 million, exclusively awarded within the industry and trade sectors. Examples of the use of economic incentives include reimbursement of a portion of the costs of adopting a certified OHS management system, or subsidies to support the capital costs of investment in drivers’ assistance systems (e.g. lane keeping assistant, emergency brake assistants, speed and distance control assistants) in the road transportation industry.
3.0 OHS Strategy Framework

3.1 Description of Elements of OHS Strategy
The Joint German OSH Strategy is guided by the National Occupational Safety and Health Conference (NAK). NAK comprises three voting representatives each from the German federal government, regional governments, and the statutory accident insurance institutions, and up to three advisory representatives each from the umbrella associations of the social partners (employers and workers). A secretariat has been set up at the BAuA (Federal Institute for Occupational Safety and Health) to support the NAK. The NAK serves as a co-ordination platform which guides the policy of the Joint German OSH Strategy, optimizes the implementation of the strategy, and evaluates the accomplishments.

In anticipation of the 2008 legislation, efforts led by DGUV, in conjunction with the social partners, defined three broad OSH targets for the period 2008-2012:

1. Reduction in the frequency and severity of occupational accidents,
2. Reduction of musculoskeletal workloads and disorders,
3. Reduction in the frequency and severity of skin diseases.

In the coming years, implementation of the jointly formulated targets of the Joint German OSH Strategy will play an important role in the prevention activities of the individual accident insurance institutions and of the DGUV. The accident insurance system’s statutory mandate continues to apply without restriction. The statutory accident insurance institutions and their partners remain free to work on issues outside the work programmes of the Joint German OSH Strategy, provided such work effectively supports the shared OSH targets. All parties to the Strategy are obliged to co-operate in its implementation; what capacity they make available for this purpose is however at their own discretion. Each party retains full control of their own personnel and finances. An average amount “invested” in the framework of the Joint German OSH Strategy by the Laender and the BGs is 5 to 10% of the personnel capacity.

Based upon the common OSH targets, the parties to the Strategy have agreed upon six priority work programs (Category I projects), to be implemented in accordance with uniform principles, and evaluated with regard to their effectiveness. These projects are to be mandatory for all parties to the Joint German OSH Strategy and conducted uniformly throughout Germany:

1. Safety and health during construction and assembling tasks
2. Safety and health in temporary work
3. Safe driving and transporting (within enterprises and on public roads)
4. Safety and health in nursing care
5. Healthy and successful office work
6. Protection of health during wet work and tasks involving substances harmful to the skin
In addition to the Category I projects, a further five work programs ("Category II projects") were adopted by the three parties to the Strategy. Uniform implementation throughout Germany is not a binding requirement upon all Strategy partners for Category II projects:

1. Awareness-rising of the subject of safety and health in schools, and the prevention of musculoskeletal workloads and disorders
2. at production workplaces in the food industry
3. at production workplaces in the area of fine mechanical assembly tasks
4. at restaurants and hotels
5. and on local public transport

3.2 Participation of employer and worker representatives
The Joint German OSH Strategy accords an important role for the social partners (employers and workers). The involvement of the social partners ensures that the OSH targets are geared as closely as possible to the needs in the field and that their impact is felt within enterprises. Besides the NAK's guiding function for the process, the national OSH forum, which takes the form of a specialist conference, enables the Strategy's subject-matter and results to be presented directly and regularly to OSH experts, players in associated areas of policy, and the scientific community and wider specialist public.

3.3 Targeting Resources to Greatest Risks
The Joint German OSH Strategy does not emphasize the targeting of resources to high risk / poor performing companies. It is, however, typical for the BG labour inspection services to monitor firm-specific compensation claim reporting and to target attention to the poorest performing employers. Information used to identify poor performing employers are the number, severity and cost of occupational accidents and diseases as well as previous inspection experience.

4.0 Operational Co-ordination among the Prevention Authorities

4.1 Priorities in Operational Coordination
The 'dual OSH' system in Germany presents an important requirement for operational coordination between the 16 regional governments and the services provided by the BGs and UKs. As noted earlier, DGUV prevention services are organized by national economic sector (BGs) and public prevention services according to regional responsibilities (UKs). Operationally, there is a regional administration of prevention services (six regional DGUV associations coordinating regional activities of BGs and UKs in the framework of the Joint German OSH Strategy).

The Joint Germany OSH Strategy has established common priorities for all parties to the Strategy. One consequence of the Joint German OSH Strategy has been to strengthen the priority given to operational coordination of the regional activities of the BGs and the Laender state labour inspections. The regional labour inspection
services are piloting a joint operations database providing for the sharing of information on completed and planned inspections.

4.2 Monitoring the Effectiveness of Prevention Services

The target of the Joint German OSH Strategy is for the incidence of occupational accidents to be reduced by 25% in all sectors and areas in Germany over the period from 2008 to 2012. Whether the parties to the Strategy are meeting these and other self-imposed OSH targets is to be reviewed regularly. An evaluation method conducted both during the process and following its completion is an elementary component of the Joint German OSH Strategy. The requirement to evaluate the Joint German OSH Strategy, is enshrined in the act for modernization of the accident insurance system (UVMG).

In December 2007, a summit meeting between the Commission for occupational safety and safety engineering of the German regional governments (LASI), the Federal Ministry of Labour and Social Affairs (BMAS) and the institutions of the statutory accident insurance system commissioned a working group comprising representatives from the three parties to the Strategy with the task of developing an evaluation framework. The task of the working group relates to overall evaluation, i.e. it concerns the entire process. During the overall evaluation of the Strategy, the targets described in the agreed concepts are to be examined and evaluated in terms of their implementation and effectiveness. These generic targets concern issues of optimization of the dual OSH system, in particular regarding a coordinated procedure for inspections and consulting in enterprises; an orderly and reliable exchange of information between the parties; and an agreed and easily comprehensible body of rules and regulations, up to and including the desired relieving of the burden upon the national economy through improvements in in-plant processes which are to be attained by means of occupational safety and health. Ultimately, the overall evaluation must reveal which effects have been attained across the board by the Joint German OSH Strategy among the target groups of in-plant occupational safety and health.

The first overall evaluation of the Joint German OSH Strategy is to be conducted in 2012/2013 based upon a snapshot of the data as at 31 December 2011, and repeated at intervals of five years. The baseline survey will be conducted in 2010. Performance of the evaluation in 2011 to 2013 will enable its results to be given consideration in decisions concerning the following period of the Joint German OSH Strategy.
References


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<th>A. Labour Force Statistics</th>
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<th>B. Inspection, Enforcement and Compliance Services</th>
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<td><strong>B.5</strong> Total number of convictions arising from the prosecution of OHS violations (if appropriate)</td>
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<td><strong>B.6</strong> Total value of fines levied for convictions arising from the prosecution of OHS violations</td>
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| **B.7** Count of the number of labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction | 30 | 3,521 |
| **B.8** Total number of field visits conducted by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction | 951 | NA |
| **B.9** Total number of orders or citations issued by labour inspection staff under the authority of other agencies that provide inspection services in your jurisdiction | 32 | NA |
| **B.10** Total number of convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction | 2 | NA |
| **B.11** Total value of fines levied for convictions arising from the prosecution of OHS violations under the authority of other agencies in your jurisdiction | $290,000 | NA |

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<td>E.5 Expenditures on pension, permanent disability awards</td>
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NA: Not available  
DNA: Does not apply


g) Annual Report 2007, Workplace Safety and Insurance Board. Total premium revenue is reported as premium revenue for the current year ($2,499 million) plus income from investments ($812 million). Additional premium revenue of $1,024 million, allocated to the unfunded liability in Ontario, are not recorded in entry E.3.

h) http://www.iwh.on.ca/compensation-fact-sheets. Expenditures on short-term wage replacement benefits (E.4) and pension awards (E.5) are consolidated in Ontario. Expenditures on health care services and vocational rehabilitation services (E.6) include expenditures for the WSIB Labour Market Re-entry program.

i) DGUV Statistics 2008 – Figures and long-term trends. Page 11, Table 1. Note that count of labour force participants presented in FTEs. See DGUV Statistics 2008, page 9 for definition of FTE.


k) DGUV Statistics 2008 – Figures and long-term trends. Pages 77 + 78, Tables 34a + 34b. Figure is combination of revenue from both private and public sectors.

l) DGUV has the administrative authority to levy fines but does not use this authority frequently. Employers may be prosecuted under civil or criminal statute for OSH violations. Prosecution is conducted by civil authorities.

m) DGUV Statistics 2008 – Figures and long-term trends. Page 81, Table 37. Figure listed is the total of all pension expenditures, including injured persons, widows/widowers, orphans and other claimants.

n) DGUV Statistics 2008 – Figures and long-term trends. Page 80, Table 36. Figure appears to include injury benefit.

o) DGUV Statistics 2008 – Figures and long-term trends. Page 83, Table 39. Figure is for Advice to business and inspections – thus may include some amount that belongs in D2.

p) DGUV Statistics 2008 – Figures and long-term trends. Page 83, Table 39. Figure does not Include amount listed in D1: Advice to business and inspections.

q) DGUV technical inspectors have responsibility for regulatory compliance (B.1) and for training and consultation services (C.1) Froneberg B, Timm Sven, Liebers F, Ertel M, Lorenz A, Grunes D. The national profile of the occupational safety and health system in Germany. DGUV, St Augustin, Germany, 2010. p27

r) DGUV Statistics 2008 – Figures and long-term trends. Page 86, Table 41.

s) DGUV Statistics 2008 – Figures and long-term trends. Page 88, Table 43.

t) Operating budget for BAuA was €45 million (2007), combined with an estimate of €38 million for DGUV

u) Froneberg B, Timm Sven, Liebers F, Ertel M, Lorenz A, Grunes D. The national profile of the occupational safety and health system in Germany. DGUV, St Augustin, Germany, 2010. p27

v) The total of surcharges in 2008 was €126 million and €343 million in rebates. Some BGs only provide rebates. Geschäfts – und Rechnungsergebnisse der gewerblichen Berufsgenossenschaften und Unfallversicherungsträger der öffentlichen Hand 2008. DGUV, 2009. Table 51, p64.


x) OHS Compliance and Operations Unit, Labour Program, HRSDC. Custom tabulation, April 20, 2010

y) Members of the German armed forces are insured under a separate work disability insurance plan. An estimate of this excluded workforce can be provided if requested.
Trends in work injury rates or claim rates, 1991-2007
Canada and Germany
(1991 = 100) (Source:ILO)