



**CREATING AN APPLICABLE CURRICULUM ON OCCUPATIONAL HEALTH AND SAFETY FOR
OCCUPATIONAL HEALTH AND SAFETY PROFESSIONALS
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**Third report:
GERMANY OHS Regulation**



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1. German OHS Regulation

1.1. OHS Legal system in Germany

In the world, the first national-scale mandatory social insurance programs were instituted in Germany under Chancellor Otto von Bismarck in the late 1800s, which included health insurance (1883), workmen's compensation (1884), and old-age and invalidity pensions (1889). By means of this scheme, Bismarck aimed to contain the negative effects of the Industrial Revolution and to ensure a healthy working population and social stability and peace. Germany added unemployment insurance to its national social security system in 1927.

1.1.1. Federal and State Laws

Germany today is a federal State: The enforcement and implementation of federal laws, including labour and OSH laws falls within the ambit of the sixteen federated States ("Länder"- see art. 83, German Constitution) whereas the federal level is responsible for legislative and policy for labour law, including occupational safety and health (art. 74, para 1 Nr. 12, German Constitution).

At the Federal level the Federal Ministry of Labour and Social Affairs manages labour issues. This covers industrial relations, social security, employment and vocational training, occupational safety and health and labour standards, legislation and the development of a national policy in this field. It furthermore collects and publishes labour related statistics.

At the State level ("Länder") the ministries responsible for a labour and social affairs portfolio are entrusted with the implementation/ enforcement of federal laws and policies in the field of labour at State level.

The Basic Law for Germany is the Constitution of the Federal Republic of Germany. The Constitutional Law (“Grundgesetz”) from 1949. The Constitution specifies fundamental human rights, such as freedom of speech and press, the right to equality, the right of asylum, and – the basis also for health and safety at work – the right of physical integrity (Article 2), the powers and duties of the three branches of government (executive, legislative and judicial), and the distribution of competencies between the Federation and the States. In addition to codifying human rights, the Constitution stipulates the structure of the German Government, including the Bundestag, the Bundesrat, the President, the executive branch and administration, the independent judiciary, the financial system and the relationship of the Länder to the federal Government.

According to § 618 of the German Civil Code (BGB), the employer is obligated to regulate workplace design and work regulations to protect the employee as far as possible against risks to life and health.

The federated States (“Länder”) are responsible for the implementation of federal laws, including federal social and labour laws. They are free to choose the administrative structure of their enforcement systems. The organisational set up of labour inspection varies therefore from one federated State to another. As an example, in the state of Berlin, the Landesamt für Arbeitsschutz, Gesundheitsschutz und technische Sicherheit (LaGetSi, state authority for safety at the workplace, health protection and technical security) or the responsible trade association must be contacted to resolve any issues arising prior to the business activity being commenced, such as questions involving the suitability of the premises as a work site.

1.1.2. German Social Code VII

Volume 7 of the German Social Code (SGB VII) formulates the statutory mandate for the work of the German Social Accident Insurance Institutions in Germany. According to the Social Code (book 7), the accident insurance bodies are responsible for preventing accidents and occupational diseases. This responsibility includes also the right to enact prevention and protection bylaws

the employers must comply with. Employers are by law held to affiliate and to pay contributions.

1.1.3. Important laws governing the safety and health of employees at the workplace

Labour Protection Act or German Act on Employee Protection, Arbeitsschutzgesetz (ArbSchG,):

provides for the employers' fundamental obligations, such as conducting risk evaluations.

Workplace Ordinance, Arbeitsstättenverordnung (ArbStättV,):

establishes the minimum requirements for a healthy and safe work environment. The ordinance contains provisions on how workspaces, storage areas and stores must be designed and furnished. This also relates to escape and exit routes, break rooms and sanitary facilities.

German Occupational Safety Act, Arbeitssicherheitsgesetz (ASiG,):

provides for the appointment of company physicians and specialists for accident prevention and the improvement of safety at the workplace and designs their tasks. The German Occupational Safety Act is put into more specific terms by the accident prevention regulations published by the trade associations.

Industrial Safety Ordinance, Betriebssicherheitsverordnung (BetrSichV,):

provides for the safe handling of equipment and tools, machines, instruments and facilities.

Ordinance on Hazardous Substances, Gefahrstoffverordnung (GefStoffV,):

establishes comprehensive rules for introducing and trading chemicals on the market.

Biological Substances Ordinance, Biostoffverordnung (BioStoffV,):

provides for the protection, safety and health of employees working with

biological substances and includes a categorization of such substances into risk groups.

German Working Hours Act, Arbeitszeitgesetz (ArbZG,):

establishes the framework for how the hours of work are to be organized. The law stipulates the maximum number of working hours per day, minimum break times during work as well as minimum rest periods after work, night-time and shift work as well as work on Sundays and legal holidays.

Maternity Protection Act, (“Mutterschutzgesetz”):

Regulates the employment rights during pregnancy.

Youth Worker Protection Act, (“Jugendarbeitsschutzgesetz”):

Protects youth workers against being overworked.

1.2. Dual Structure

The German system for safety and health at the workplace has a dual structure. It encompasses state (at Federal and Land level) safety and health provision and the autonomous accident insurance institutions. The state (at Federal and Land level) enacts legislation and promulgates regulations and the rules of state boards. After examination of their needs, and with the approval of the Federal and Land governments, the accident insurance institutions release their own accident prevention rules. Officials of the relevant state (in this case, Land) supervisory authorities and the accident insurance institutions have oversight over businesses and provide advice.

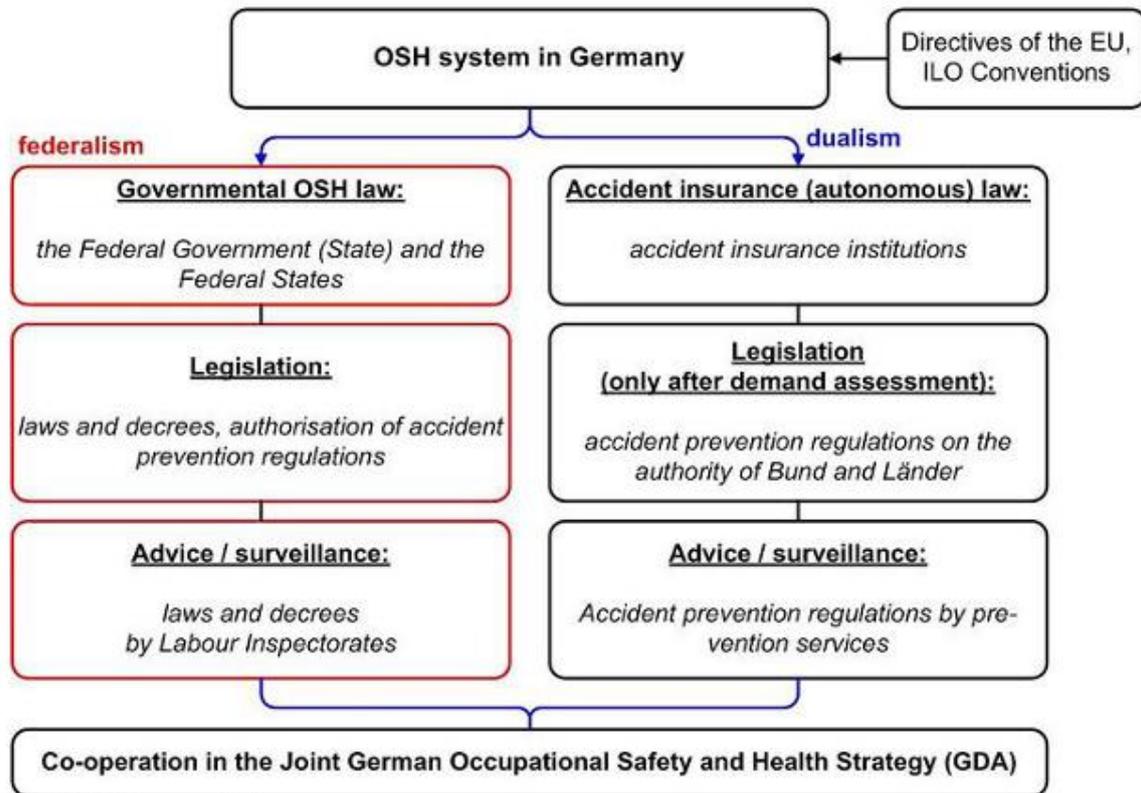


Figure 6: OSH system in Germany

1.3. Legal System of Social Insurance and the Statutory Accident Insurance Institutions (DGUV)

The statutory insurance for OHS (in German Unfallversicherungsträger or Berufsgenossenschaften) consists of insurance providers for industry, for agriculture and for the public sector. All firms and public-sector organisations are required to be member of one of these Berufsgenossenschaften. The accident prevention regulations (UVVs) are issued by the German Social Accident Insurance institutions. A small number of these apply to all sectors of the economy, such as the regulation governing prevention principles; others are geared to particular sectors, establishments or areas of activity.

The accident prevention regulations are legally binding for the employers concerned and the insured individuals. Valid since 2011, DGUV Regulation 2 is

the first standardized, identically worded set of guidelines published to support the German social accident insurance institutions for trade and industry and the public sector in the implementation of the German Occupational Safety Act (AsiG). The focal point of the reformed regulation is a new concept for the provision of standard supervision to companies with over 10 employees. The labour inspectorates at the German social accident insurance institutions for both trade and industry and the public-sector support companies and authorities in the practical implementation of DGUV Regulation 2. They also provide information on the regulation through their websites and offer guidance on its application.

1.4. The Joint German Occupational Safety and Health Strategy

(GDA)

The Joint German Occupational Safety and Health Strategy (GDA) is an initiative by the German government, the federal states ("Länder") and the accident insurance institutions. The alliance aims to modernise the German occupational health and safety system and to create incentives for companies to strengthen workplace health and safety.

Cooperation is the guiding principle of the GDA: The federal government, the federal states and the accident insurance have committed themselves to jointly coordinate their prevention policies. They agree upon occupational safety and health objectives and develop procedures for providing consultancy to and supervision of the companies. Furthermore, they aim to create a transparent and easy-to-understand set of rules and regulations.

The "core elements" of the GDA are:

- **Joint occupational safety and health objectives and joint work programmes:**

The GDA work programmes directly address the issue of safety and health at company level. The programmes provide support to employers, the management, employees as well as experts to improve safety and health at work.

- **Improved consultancy and supervision of employers:** The GDA improves the practical cooperation between the two pillars of the German OSH

system: the public occupational safety and health authorities and the accident insurance institutions. The cooperation is based on joint guidelines and the exchange of information about company visits by the supervisory agencies.

- **User-friendly rules and regulations:** The GDA aims to optimise and harmonise the complex legal framework in the field of occupational safety and health. Companies and employees benefit from increased legal certainty as regards their responsibilities for health and safety.

The role of federal government is to create the legal framework for occupational safety and health and to undertake research on working conditions. Furthermore, it represents Germany in European and international OSH institutions.

The supervisory agencies of the 16 federal states ("Länder") control the implementation of OSH legislation at the workplace. They provide consultancy to employers and – if necessary – impose sanctions on companies that do not comply with legal requirements.

The accident insurance institutions engage for the prevention of work-related accidents and occupational illnesses. They supervise the implementation of legal requirements and give consultancy to employers and employees. The DGUV (German Social Accident Insurance) is the umbrella association of the accident insurance institutions for the industrial and public sectors.

The alliance aims to modernise the German occupational health and safety system and to create incentives for companies to strengthen workplace health and safety. Reducing accidents at work and work-related illnesses save money at microeconomic and macroeconomic level. OSH is intended to promote positive changes, not to hinder them. Against this background, the Joint German OSH Strategy contributes to:

- maintain and strengthen employability, including the promotion of lifelong learning
- support general health objectives
- relieve the social insurance systems and
- increase the competitiveness of companies.