

Germany

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PART 1 – NATIONAL FRAMEWORK

Overview

National social dialogue	Principal Level of Collective Bargaining	Industry	
	Workplace Representation	Works council	
	Board-level Representation	Yes for state-owned and private enterprises	
National worker representation	Under the Works Constitution Act, first passed in 1952 and subsequently amended, most recently in 2001, a works council can be set up in all private sector workplaces with at least five employees. (There is a system of staff councils in the public sector which have a broadly similar structure.) Works councils provide representation for employees at the workplace and they have substantial powers – extending to an effective right of veto on some issues. Although not formally union bodies, union members normally play a key role within them.		
Principal legal documents on H&S	Health and safety is regulated by the 1973 Occupational Health and Safety Act (Arbeitssicherheitsgesetz), amended in 1976, and the 1996 Health and Safety at Work Act (Arbeitsschutzgesetz – ArbSchG).		
Public authorities on H&S	The federal government – or more accurately the Federal Ministry of Labour and Social affairs – has legislative powers and is supported by an authority that is answerable to the Federal Ministry for OSH (Bundesanstalt für Arbeitsschutz und Arbeitsmedizin – BAuA). Whilst only the federal government has the power to introduce legislation, the individual federal states are responsible for checking that government regulations are being implemented and fulfilled by the employers.		
Employers' obligations on H&S	Generally, all OSH provisions are aimed at employers, and it is they who are responsible for the safety and health of their employees in the workplace. The Health and Safety at Work Act requires employers to adopt the necessary occupational safety and health measures taking account of any circumstances affecting the safety and health of employees in the workplace. The employer must assess the effectiveness of such measures and, if need be, adjust to changing circumstances. In so doing, his goal must be to improve employees' safety and health protection. Employers may delegate some of this responsibility to supervisors, but ultimately, they bear the overall responsibility. Employers have been required by law since the mid-1970s to take advice on OSH-related matters from enterprise doctors and occupational safety delegates. Furthermore, employers must appoint safety delegates with responsibility for monitoring OSH in their enterprise unit or department, and supporting employers in fulfilling their OSH obligations. Employers have also a duty to provide their employees with statutory accident and health insurance cover.		
Worker representative bodies on H&S	Works councils play an important role in health and safety. In particular they are consulted on the appointment of safety delegates (Sicherheitsbeauftragte). These must help the employer in the prevention of accidents at work and ensure effective implementation of statutory and regulatory health and safety provisions. In any undertaking with more than 20 employees, safety delegates must be appointed by the employer. A health and safety committee must be set up in all undertakings where there is an occupational physician or safety specialist. This committee consists of the occupational physician(s) or industrial safety specialist(s), the safety delegate(s) (and where there are more than three of the latter, they appoint three representatives to the committee), the employer and two representatives of the works council. The committee has an advisory role on measures aimed at improving safety at work or the prevention of industrial accidents. In undertakings not employing an occupational physician or safety specialist, a safety committee (Sicherheitsausschuss) must be set up if more than three safety delegates have been appointed. The employer must hold an exchange of views with this committee at least once a month, with the participation of the works council.		
Organisation of the social dialogue on H&S issues within the country	<i>Actors involved</i>	<i>Their role</i>	<i>Scope of influence</i>
	Works council	inform, consult, making proposals, negotiate, co-decide	Enterprise
	German Confederation of Trade Unions (DGB) and its affiliates	Negotiate to establish a comprehensive body of technical regulations. Organising the	Various levels

		workers group in the self-administration of the accident insurance.		
	Advisory Council of the Federal Institute for Occupational Safety and Health (BAuA)	Plan work programmes and design research programmes, distribute information, doing seminars.		National
	Accident insurance	Prevention, rehabilitation, compensation		National
Specialized H&S bodies on regional, sectorial or another level	<i>Name</i>	<i>Setup conditions</i>	<i>Composition</i>	<i>Role and functions</i>
	N/R	N/R	N/R	N/R

PART 2 – ENTERPRISE LEVEL: ORGANISATION OF SOCIAL DIALOGUE AND WORKERS' PARTICIPATION ON H&S AT WORK

General organisation and role on H&S issues	<p>The works council is responsible for dealing with all enterprise-related problems. Depending on its size, one or more works council members may be responsible for OSH, i.e., making sure that OSH regulations are observed and putting forward proposals on how to improve OSH. Naturally, employees also form part of the in-enterprise OSH system. Safety delegates (Sicherheitsbeauftragte), must help the employer in the prevention of accidents at work and ensure effective implementation of statutory and regulatory health and safety provisions. In any undertaking with more than 20 employees, safety delegates must be appointed by the employer. In undertakings with more than three safety delegates, the management must arrange a briefing meeting at least once a month. The minimum number of safety delegates is set by the rules of the occupational accident insurance funds (Berufsgenossenschaften), depending on the size of the undertaking and the type of risks.</p> <p>A health and safety committee (Sicherheitsausschuss) must be set up in all undertakings where there is an occupational physician or safety specialist. This committee consists of the occupational physician(s) or industrial safety specialist(s), the safety delegate(s) (and where there are more than three of the latter, they appoint three representatives to the committee), the employer and two representatives of the works council. The committee has an advisory role on measures aimed at improving safety at work or the prevention of industrial accidents. In undertakings not employing an occupational physician or safety specialist, a safety committee (Sicherheitsausschuss) must be set up if more than three safety delegates have been appointed. The employer must hold an exchange of views with this committee at least once a month, with the participation of the works council.</p>
Interaction of H&S representation with the general representation of workers	<p>Most of the safety delegates are members of trade unions. They all have information, newspaper, legal advice, qualification, seminars, personal consultation possibilities. OSH is a part of the issues they attend to, also in a strategic way. At enterprise level, unions are mostly involved in informing and training union members and, to some extent, those works council members with OSH responsibilities. The same applies to safety delegates.</p>
Worker representation bodies on H&S at work	
<i>Implementation of worker representation in H&S on enterprise level</i>	All workers are covered
<i>Thresholds of implementation</i>	Work councils are elected as from 5 employees. The number of council members are legally defined by thresholds linked to the number of employees (e.g. between 5 and 20 employees, between 21–50, etc). In any undertaking with more than 20 employees, safety delegates must be appointed.
<i>Role of the trade unions</i>	Trade unions initiate the elections of work councils
<i>Composition, mode of nomination or election of members</i>	Work council members are elected by all employees. Enterprise workforces elect a works council every four years.
<i>Area of competencies</i>	All OSH issues regulated in the legislation; i.e. taking up workers' individual health-related complaints, integrating occupational safety and health into broader enterprise

	life and management concepts, cooperating with occupational safety and health authorities and institutions, as well as accident insurers, and helping individual workers to look after their own health concerns within the enterprise.	
<i>Functions</i>	All kinds: inform, consult, making proposals, negotiate, co-decide	
Rights of workers' representatives on H&S		
<i>Right of withdrawal, of production stop in case of immediate danger</i>	Yes	
	This is called "Gefahr im Verzug"	
<i>Right to conduct surveys</i>	Yes	
	N/A	
<i>Right to require external assessments</i>	Yes	
	N/A	
<i>Right to lodge an appeal</i>	Yes	
	When they have specific grounds of complaint, workers have a right of appeal to the competent authority where measures taken and resources provided by the employer are insufficient to guarantee safety and health protection at work, and the employer fails to take remedial action following such complaints.	
<i>Right to receive training</i>	Yes	
	N/A	
	<i>Amount of training</i>	There are no legal stipulations ("as much as necessary")
	<i>Frequency of training</i>	There are no legal stipulations ("as much as necessary" as long as it makes sense)
	<i>Training providers</i>	Trade unions, accident insurance providers and others
<i>Allocated time during working hours to conduct their role</i>	Yes	
	N/A	
<i>Protection against sanctions, dismissals in the frame of their mandate</i>	Yes	
	N/A	
Link and the nature of the relations between the employee representatives and the trade unions	Most of the representatives are members of trade unions. Workforce representatives also receive support from their trade unions, especially in the form of training, advice and their integration into enterprise, multi-enterprise or regional networks.	

PART 3 – ASSESSMENT OF THE SOCIAL DIALOGUE AND WORKERS' PARTICIPATION IN THE COUNTRY

Evolution

Significant changes within the various instruments on H&S issues during the last 5 years	No	
	<i>Objectives of these changes</i>	N/R
	<i>Management of these changes</i>	N/R
	<i>Effects on the improvement or deterioration of the handling of these issues</i>	N/R
Assessment of the achievements on H&S issues through social dialogue	Stable	
	<i>Some important milestones</i>	The self-administration-bodies in the accident insurance scheme. Well over 1,000 union affiliates are involved in the self-governing bodies that form part of this statutory accident insurance system.

Perspectives to achieve a good social dialogue and workers' participation on H&S issues

Missing factors	Controls by labour inspection; responsibility of state for the workers; Safety regulations and occupational health care requirements for small and medium-sized firms.
Existing key success factors	The country's firmly established institutions and structures devised to guarantee occupational safety and health both within and outside enterprises (e.g. State government, Statutory Accident Insurance, Statutory Health Insurance, etc.)

PART 4 – APPENDICES

Glossary

Arbeitsschutzgesetz – ArbSchG	<i>Health and Safety at Work Act</i>
Sicherheitsbeauftragte	<i>safety delegates appointed by the employer</i>
Sicherheitsausschuss	<i>safety committee in undertakings not employing an occupational physician or safety specialist.</i>
Berufsgenossenschaften	<i>occupational accident insurance funds</i>

Interesting links

N/A

Sources

Trade union contacts	Deutscher Gewerkschaftsbund DGB	Schroeder Marina
Other	<ul style="list-style-type: none"> – http://www.worker-participation.eu – questionnaire reply – ETUC-TUTB, "Occupational safety and health in Germany pre European law reform – status and shortcomings". 2004 	