

Conference on the implementation of Article 7 of the Framework Directive 89/391/EEC - particularly in SMEs

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Conference on the imple- mentation of Article 7 of the Framework Directive 89/391/EEC

– particularly in SMEs

6 March 2007

German Occupational Safety & Health Exhibition
(DASA), Dortmund



Bundesministerium
für Arbeit und Soziales



EUROPÄISCHE
KOMMISSION

Conference on the imple- mentation of Article 7 of the Framework Directive 89/391/EEC

– particularly in SMEs

6 March 2007

German Occupational Safety & Health Exhibition
(DASA), Dortmund

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Foreword

“Joining forces for a social Europe – for a social world”. That was the motto of the Federal Ministry of Labour and Social Affairs for the German Presidency of the EU Council.

The quality of work is a key element of this strategy. The aim of the conference was to increase this quality.

Current European accident statistics show that, with 82% of all work-related injuries and 90% of all fatal accidents, small and medium-sized enterprises in Europe require special assistance in prevention matters.

Effective prevention definitely offers the enterprises advantages in terms of business figures. That was the tenor of the papers at the “Conference on the Implementation of Art. 7 of the Framework Directive 89/391/EEC, particularly in SMEs” held on 6 March 2007. In the steel hall of the German Occupational Safety and Health Exhibition (DASA), representatives of the European Commission and various member states discussed possible strategies to convince SMEs of the benefit of calling in prevention experts.

The Conference, organised under the German EU Council Presidency by the Federal Ministry of Labour and Social Affairs (BMAS) and the Federal Institute for Occupational Safety and Health (BAuA), was reacting to the statement of the European Commission that small and medium-sized enterprises frequently do not discharge their obligation to call in OSH experts. The contributions on the implementation of Art. 7 in Germany, Great Britain, Finland, France and Poland showed the latitude which Community law allows the member states in terms of formulation. It became clear that investments in occupational safety and health pay off and that the accident figures decline.

Rudolf Anzinger

State Secretary in the Federal Ministry of Labour and Social Affairs (BMAS)
Germany

Opening of the Conference

Dear Mr. Biosca de Sagastuy, dear Prof. Bieneck, my honourable guests from all over Europe, welcome to Dortmund.

I would like to pass on the good wishes of the Vice Chancellor and Federal Minister, Franz Müntefering, to whom occupational safety and health and the humanisation of working life means a lot.

Since 1 January 2007 Germany has held the Presidency of the EU Council. And has also held the chair of the G8 countries. It is in the very term of the German Presidency that the 50th anniversary of the signing of the Treaty of Rome is being celebrated. According to the member of the European parliament, Elmar Brok, it is “the foundation of a previously unheard of European success story of peace, democracy and prosperity.”

During its EU Presidency, the German government will mainly advocate adding even more weight to the social policy as part of the Lisbon strategy. In our opinion a well conceived policy of social protection contributes towards achieving the objectives of growth and employment. Furthermore, social cohesion is strengthened by more growth and employment. The programme of the Federal Ministry of Labour and Social Affairs (BMAS) for the EU Presidency therefore runs under the motto: “Joining forces for a social Europe – for a social world”. The focal areas in the field of labour and social affairs are:

1. the further development of the European social model,
2. equal opportunities and
3. the subject of good work.

And as far as “good work” is concerned, we in Germany and the European Union have quite a lot to show. “Good work” means workers’ rights and participation, fair wages, security and safety and health at work as well as a family-friendly work organisation. Good and fair working conditions as well as a reasonable level of social security are indispensable for the acceptance of the European Union by its citizens.

Ladies and gentlemen,

According to a recent survey conducted by the European Foundation for the Improvement of Living and Working Conditions in Dublin, 82% of the workers surveyed indicated that they were satisfied or very satisfied with their working conditions. But at the same time one in three workers questioned said that their work jeopardised their health and safety. However, the improvement in the quality of work is not only crucial for the well-being of individual workers. It also increases the performance of the company and Europe as an economic region.

The EU strategy on health and safety at the workplace, which was accepted by the EU Commission in February, justifiably still sees a lot of potential for optimisation. This applies in particular to those branches of industry which have an especially high risk of industrial accidents: for example the construction industry and agriculture. However, the so-called working conditions involving special risks to health are affected unequally by industrial accidents. The new EU strategy is aimed at reducing industrial accidents by one quarter by 2012. Ambitious but attainable! So we support this! Both the EU and the member states take on an important role in the development of action to achieve this objective. Commitment in the companies themselves, however, is indispensable. We know from pioneering companies that, if the entrepreneur invests a lot in the safety and health of his workers, this ultimately pays off for the enterprise itself.

Ladies and gentlemen,

In Germany the Federal Ministry of Labour and Social Affairs supports the “Great-Place-To-Work” competition. Impressive examples of good company practice are presented and

honoured in this competition every year. The advantages for companies, which also include the creation of excellent workplaces, are obvious: Higher productivity, more creativity and improved worker loyalty. It is no coincidence that the top places in last year's competition were held by commercially successful companies.

Ladies and gentlemen,

However, frequently a lot of PR work has still to be done at the smaller enterprises. They must be better supported than before in introducing safety and health standards. The economic and social benefits are then generally produced by themselves.

Ladies and gentlemen,

The employer bears a lot of responsibility for the health and safety of his workers. Most employers also know that. However, they need assistance. Such help can be offered to the employer by the specialised people or services pursuant to Article 7 of the Framework Directive on safety and health at work. That is the whole point of this regulation.

It's no secret: Small and medium-sized enterprises also need support to overcome the challenges of the demographic change. If people are to and want to work longer, the working conditions must be designed so that they can also do so. We therefore need age-appropriate work. But we also need ageing-appropriate work. That means that arrangements must be made in good time. Not just when the majority of the workforce has passed the 50 mark. Therefore, preventive occupational safety and health is indispensable, especially with increasingly older workforces.

In addition to classic risks, for example through exposure to hazardous substances, the modern world of work involves new risks. Work intensification, pressure from deadlines, flexibilisation of working time and the working conditions as well as rising demands on qualifications. All these may cause illnesses. Prevention experts have the knowledge and experience to advise and support the enterprises individually.

The communication of the Commission dated 5 February 2004 on the practical implementation of the Framework Directive on safety and health at work proved one thing: We can still considerably improve the organisation of protection and prevention services in all European countries – the communication relates to the EU 25. This is particularly significant in small and medium-sized enterprises. The inadequate or lack of support for small enterprises with safety and health at the workplace may become a time bomb for the workers. If no prevention services are ordered, a risk assessment frequently does not take place.

The accident statistics back up the consequences: Small and medium-sized enterprises in Europe are especially affected, accounting for 82% of all work-induced injuries and 90% of all fatal accidents.

Ladies and gentlemen,

If we examine the relevant orders of magnitude, it can be seen that much more attention has to be paid to this field. In the EU 25, enterprises with fewer than 250 workers (i.e. SMEs according to the definition of the European Commission) were an important engine in trade and industry: SMEs represented 99.8% of all companies and employed roughly two thirds of all workers. Nine out of ten companies in the non-financial sector of trade and industry in the EU had fewer than ten employees in 2003. Nevertheless, these micro-enterprises accounted for 30% of jobs.

In Germany, we have tried in the past to react to the specific needs of the small and medium-sized enterprises. However, fixed deployment times for prevention experts were no

longer practicable. We then introduced flexible models. That considerably increased the participation of the small enterprises in prevention.

Today's conference offers us the opportunity to compare various national implementation models. The aim is not to assimilate everything – that would also contradict the spirit of Article 7 of the Framework Directive. For it quite intentionally gives the member states a lot of leeway. The aim today is to share experience and learn from one another. We will hear examples of good practice, experience a lively exchange and hold stimulating discussions here in the hall and certainly also on the fringe of this conference.

Ladies and gentlemen,

The city of Dortmund is also historically ideal for such a conference. After all, in the middle of the 20th century there were more than 15 coal mines in the Dortmund city area. With all the positive and negative consequences for the working and living conditions of the people here. The last colliery was closed down in 1987. Today you can see for yourself that this city has succeeded in overcoming the structural change.

We are convening in a pleasant environment, in a city which offers sustainable jobs in an intact world of work. However, the unemployment rate is still too high! We are striving to improve the situation. That this city is worth living in – and I have to stress that in view of the demographic development in Germany – is reflected in the fact that Dortmund is one of the few cities in Germany whose population is continuing to grow. That's a small sensation for Germany! And it's not because of the football which is currently played here in Dortmund. And about which there is a lot of grievance after the loss at home against Cottbus on Sunday! So it must be something else! Gain an impression for yourselves!

I thank you for listening and hope you all have a successful conference.

Hans-Jürgen Bieneck

**President of the Federal Institute for Occupational Safety and Health (BAuA)
Germany**

Introduction



**Welcome to the “Conference on the
implementation of Article 7 of the
Framework Directive 89/391/EEC,
particularly in SMEs”**

- Introduction -

Hans-Jürgen Bieneck,

President of the Federal Institute for Occupational Safety &
Health (BAuA)



Hans-Jürgen Bieneck



Occupational safety & health in SMEs

- Regulation versus implementation
- Problems unknown
- Higher accident rates (accident causes)?
- Reduction of the number of accidents?
- Systematic prevention?



2

Hans-Jürgen Bieneck



Key ideas of the Conference

- Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety & health of workers at work, notably Article 7
- Advice and assistance for SMEs
- Exchange of experiences on EU - level

Article 7 - Protective and preventive services

- The employer shall designate workers to carry out activities related to the protection and prevention of occupational risks
- designated workers may not be placed at any disadvantage because of their activities
- designated workers shall be granted adequate time

Article 7 - Protective and preventive services

Moreover,

- if such protective and preventive measures cannot be organized for lack of competent personnel in the undertaking and/or establishment, the employer shall enlist competent external services or persons
- where the employer enlists such services or persons, he shall inform them of the factors known to affect, or suspected of affecting, the safety and health of the workers, and they must have access to ... information

....

Article 7 - Protective and preventive services

In all cases:

- the workers designated must have the necessary capabilities and the necessary means
- the external services or persons consulted must have the necessary aptitudes and the necessary personal and professional means, and
- the workers designated and the external services or persons consulted must be sufficient in number

(the organization of protective and preventive measures shall take into account the size of the undertaking and/or establishment and the hazards)

Article 7 - Protective and preventive services *

Moreover,

- The (internal) workers and the (external) services must work together whenever necessary
- Member States may define, in the light of the nature of the activities and size of the undertakings, the categories of undertakings in which the employer, provided he is competent, may himself take responsibility for certain measures

Article 7 - Protective and preventive services *

Moreover,

- Member States shall define the necessary capabilities and aptitudes
- Member States may determine the numbers of personnel considered to be sufficient

Synopses

- Study about external protective & preventive services of the Senior Labour Inspectors Committee: Anastasios Yiannaki (Cyprus)
- Organisation of external protective and preventive services in 15 Member States of the European Union: Marc de Greef (Belgium)

Key issues

- National legislation dealing with (internal and external) protective and preventive services
- financing
- qualification
- work organisation
- quality assurance
- enforcement

National implementation of Article 7

- Germany: Antje Brehmer / Gerhard Strothotte
- Great Britain: Sandra Caldwell
- Finland: Leo Suomaa
- France: Philippe Jandrot
- Poland: Grzegorz Dudka

Dimension of health and safety at work (2006)

Country	Population	Labour force
EU 27	492,852,385	
Germany	82,437,995	40,600,000
Finland	5,255,580	2,546,661
France	62,886,171	26,535,140
United Kingdom	60,393,100	28,185,419
Poland	38,157,055	16,776,498

Thank you for your attention.

Anastasios Yiannaki

Ministry of Labour and Social Insurance

Cyprus

**Study about external protective and preventive services
of the Senior Labour Inspectors Committee**

Summary

The Framework Directive 89/391/EEC provides for the existence and use of External Services or Persons, which may carry out protective and preventive activities for employers.

After the Senior Labour Inspectors Committee (SLIC) meeting in London (November 2005), it was decided to carry out a study about the External Services or Persons in the Member States. For carrying out this study, the members of SLIC were requested to provide data for the arrangements concerning the External Services or Persons in their countries. Iceland and Norway also participated in the study.

This study gives information about the education, qualifications, training and experience of persons that are capable to carry out preventive or protective activities. The study also provides details about the professional means used by the External Services or Persons for carrying out their activities. Furthermore, the study gives information about the composition of External Services, as well as the procedure needed to approve the External Services or Persons in order to be able to carry out their activities, when this approval is necessary. Additionally, it provides information about the time availed by the External Services or Persons in the employers' enterprises, the activities offered to the employers, the necessary documents to be submitted to the Authorities and the payment arrangements. Moreover, the study provides statistical data and the legal acts related to the External Services or Persons in each country.

The study has confirmed the diversity of approaches, which have been followed by the various countries in the field of External Services or Persons. At the same time, this study has shown some clear trends, which have been adopted in the different countries.

Finally, the study summarizes the results and gives an overview of the arrangements of the various countries.

Study on External Protective and Preventive Services / Persons

**SENIOR LABOUR INSPECTORS COMMITTEE
(SLIC)**

**Dortmund Conference March 2007
Anastasios Yiannaki
Department of Labour Inspection Cyprus**

Study on External Protective and Preventive Services / Persons

- **Legal Background for External Services/Persons**
 - **Framework Directive 89/391/EEC (Art. 7)**

- **Aim of the Study**
 - **Collection of information on External Services/Persons**
 - **Achieve transparency**
 - **Share knowledge (experience, practices)**
 - **Allow each country to decide on improvements/changes**

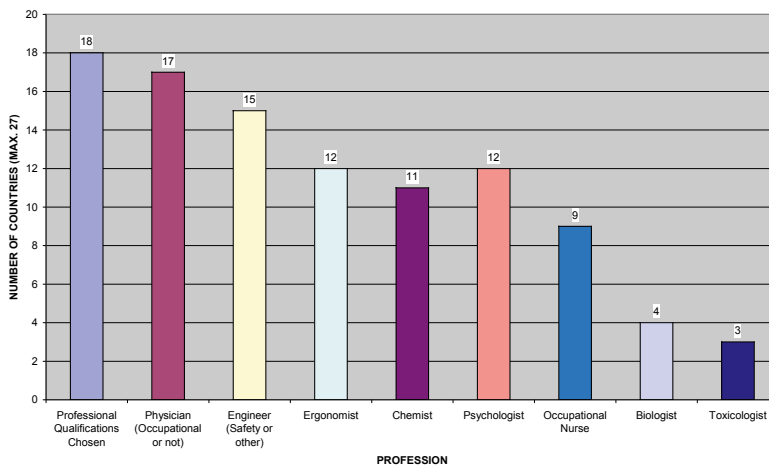
Study on External Protective and Preventive Services / Persons

- **Decision for carrying out the Study**
 - SLIC Meeting London November 2005
- **Participants**
 - All Member States, Norway and Iceland
 - 27 countries
- **Procedure**
 - Use a questionnaire
 - Have comments from SLIC Enforcement WG
- **Main findings**

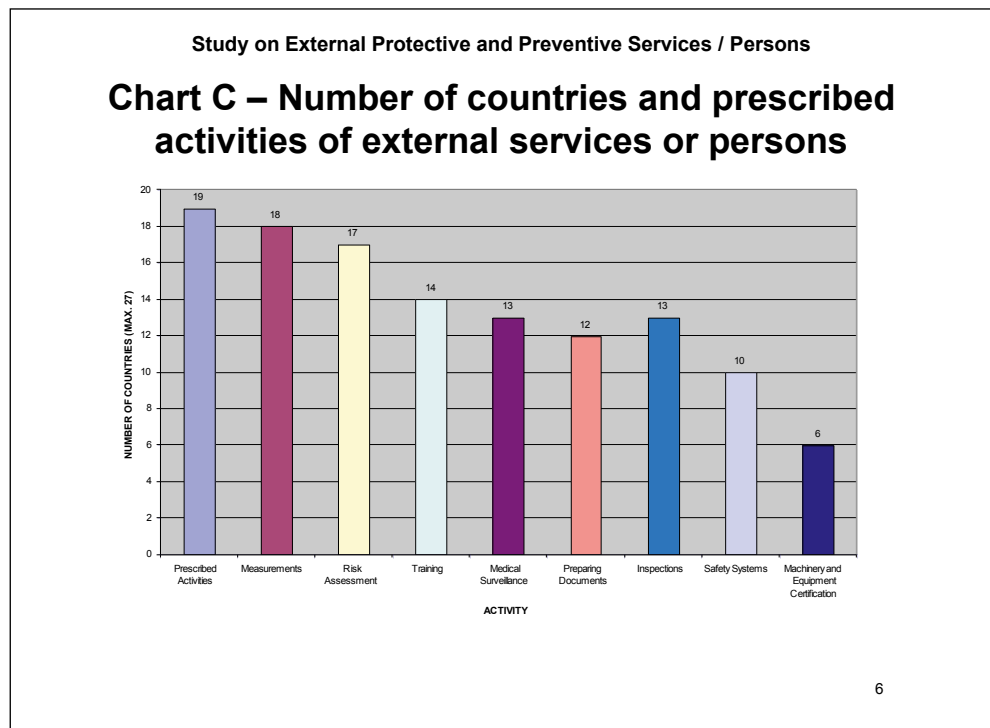
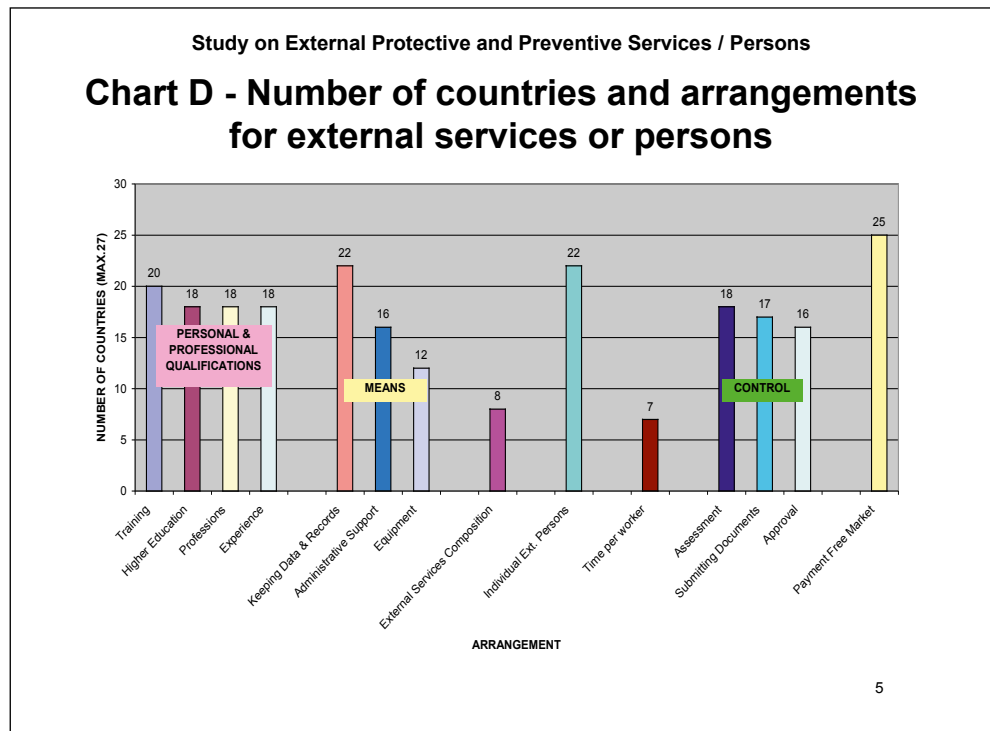
1

Study on External Protective and Preventive Services / Persons

Chart A - Number of countries and professions of persons carrying out protective or preventive activities



4



Antje Brehmer

Federal Ministry of Labour and Social Affairs (BMAS), Germany ¹

Gerhard Strothotte

German Federation of Institutions for Statutory Accident Insurance and
Prevention (HVBG), Germany ²

Germany – national implementation of Article 7

Summary

1. Statutory specifications

The Art. 7 of the Framework Directive is being implemented in Germany primarily through a framework act (Act on Company Doctors, Safety Engineers and Other Occupational Safety Specialists – Occupational Safety Act (ASiG)). The ASiG describes objectives and specified tasks without making concrete stipulations, and in practice it therefore provides scope for manoeuvre: the employer must appoint company doctors and occupational safety specialists, in as far as this is necessary for the workers' occupational safety and health; the ASiG contains a non-conclusive catalogue of tasks for company doctors and occupational safety specialists; it lays down their basic qualifications and it includes other general provisions, e.g. their autonomy with respect to external directions.

The ASiG delegates detailed provisions to the statutory accident insurance carriers. These concretise government regulations by means of accident prevention regulations, in whose adoption the Federal Ministry of Labour and Social Affairs (BMAS) is actively involved as the licensing authority. The accident prevention regulations originally related only to larger companies. They contained only one support model, so-called structured support. This provides for fixed minimum assignment schedules for occupational safety and health experts, which are calculated according to the number of employees per year and the risk potential of the sector concerned. In the mid 90s structured support was applied to small companies 1:1. These partly felt the regulations to be too inflexible and impracticable; in particular so-called fixed mini assignments schedules were criticised. In view of this the industrial Berufsgenossenschaften (BGs – institutions for statutory accident insurance and prevention) have reformed small company support over the past few years on the initiative of the BMAS. The regulations have been optimised thanks to flexible and need-based strategies. The reform has a deregulatory effect at the same time and is a component part of the programme of action of the Federal Government with respect to simplifying bureaucracy.

2. Details of the reform

With the concept for small company support developed over the past years by the German Federation of Institutions for Statutory Accident Insurance and Prevention (HVBG, since 2007 German Statutory Accident Insurance DGUV) it is intended to remove impracticable regulations and the various support models of the individual BGs are to be given a uniform structure. With the newly developed concept the goal is also being pursued of orienting the provision more to the actual risk situation of the individual companies and hence of improving the conditions for the implementation of company medical and safety provision in small companies.

With the involvement of the competent Federal Ministry, the social partners and the BGs there emerged the new accident prevention regulation BGV A2 "Company Doctors and Occupational Safety Specialists". It adapts the so-called structured support in companies with up to ten employees to the requirements of smaller companies and forms the basis for a harmonised implementation of the alternative provision, known as employer model. The most far-reaching new feature is that companies with a maximum of 50 employees now basically have the choice between structured support and the alternative form of support, depending on what the employer considers suitable for his company.

The structured provision of companies with up to ten employees is no longer defined by the stipulation of fixed minimum assignment schedules per employee. Here a distinction is drawn between basic provision and requirement-based provision. Basic provision includes support in risk assessment in the company and the development of corresponding occupational safety and

1 Numbers 1 and 3 to 6.

2 Number 2.

health measures. The expertise of company doctors and occupational safety specialists must be involved here. Basic provision must be repeated at intervals of 1, 3 or 5 years, depending of the risk group in which the companies of a sector are classified.

Alternative provision consists of motivational, informative and continuous training measures for the employers and a need-based provision on the basis of the results of the company risk assessment. The motivational, informative and continuous training measures create in employers problem awareness with respect to occupational safety and health. They also enable them to implement basic occupational safety and health measures themselves and to identify the need for company medical and safety advice over and above this. With regard to the subject matter of the motivational and information measures mandatory times and topics were laid down within the framework of the new concept. The amount of time and the intervals for the informative and motivational measures arise from the classification of companies into three risk groups.

The employer is obliged under the two concepts mentioned to arrange for the provision of a company doctor or an occupational safety specialist with sector-specific expertise in matters of occupational safety and health on particular occasions itemised in BGV A2. The new cross-BG concept for the company medical and safety provision of small and very small companies provides for the conduct by the BGs of evaluation measures for the ongoing improvement of small company provision.

In addition to the introduction of the new concept for small company provision, the BGs are preparing the subsequent reform of the structured provision of companies with more than ten employees. This reform concerns essentially the unification and optimisation of the previous assignment schedule concepts. The future concept for structured provision in companies with more than 10 employees will take account of a more individual orientation of the scope of provision to the actual risks in the specific companies, along the lines of small company provision. It therefore comprises a basic provision with a specific sector orientation and a company-specific part of the provision. For the basic provision the BG specifies assignment schedules for company doctors and occupational safety specialists geared to the risks for the specific sector. To achieve uniform assignment schedules for the basic provision, the principle introduced for small company provision of classifying companies into three risk groups has again been adopted. The basic provision is supplemented by a company-specific part if certain additional risks are present in the company over and above those specific to the sector and if they are of relevance with respect to provision input.

3. Quality assurance

There are no statutory specifications for quality certification. This can be obtained, however, from quality assurance companies on a voluntary basis.

4. Qualification of occupational safety and health experts

The ASiG standardises two professional groups: company doctors and occupational safety specialists.

- a) The professional prerequisite for a licence as a company doctor is the licence to practise as a physician and an additional qualification in occupational medicine (additional training period 60 months) or the additional qualification in occupational medicine (additional training period 36 months) according to the autonomous law of the Federal States.
- b) The training prerequisites for occupational safety specialists were reformulated in the year 2000. The basic qualification is normally the profession of engineer, technician or master (craftsman). The prerequisite is also work experience and completion of course provided by the accident insurance carriers.

5. Funding

The employer is responsible for a properly functioning organisation of occupational safety and health in his company and is obliged to bear the costs for the occupational safety and health measures, including the appointment of preventive services.

6. Implementation

The regulations under Art. 7 are implemented on the one hand by government occupational safety and health inspectors of the Federal States and, on the other hand, by supervisory personnel of the statutory accident insurance carriers (so-called dualism in occupational safety and health.) They collaborate closely in monitoring the companies and provide reciprocal information on company inspections conducted. Consultation and ongoing optimisation of this collaboration is part of the German Common Strategy on Safety and Health at Work.



Bundesministerium
für Arbeit und Soziales



HVBG
Hauptverband der
gewerkschaftlichen
Berufsgenossenschaften



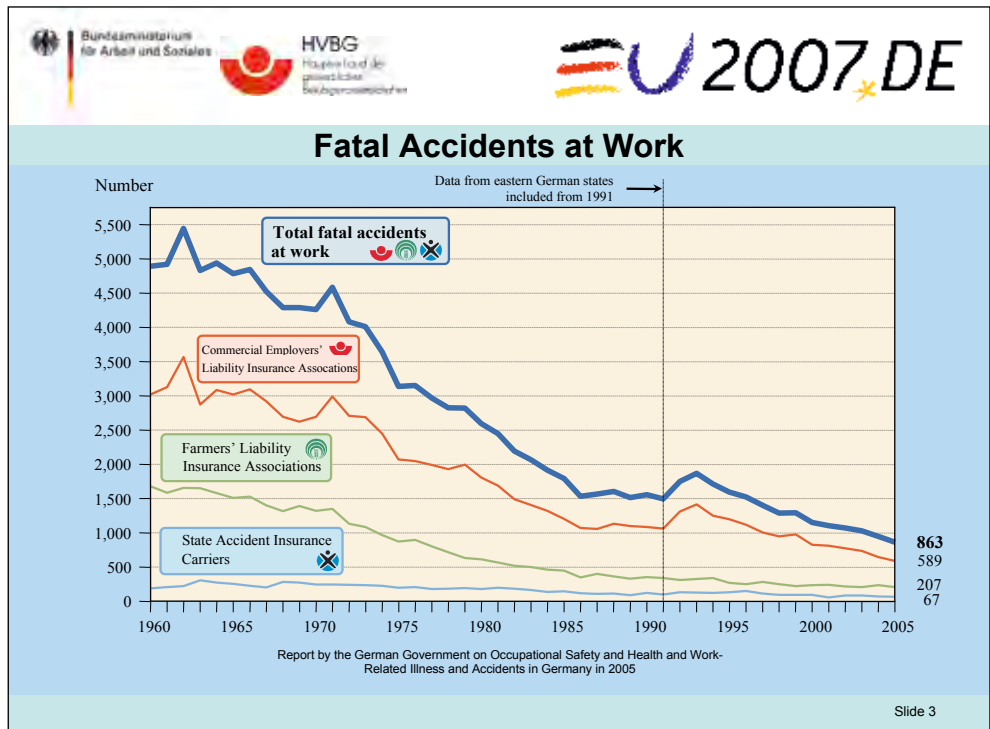
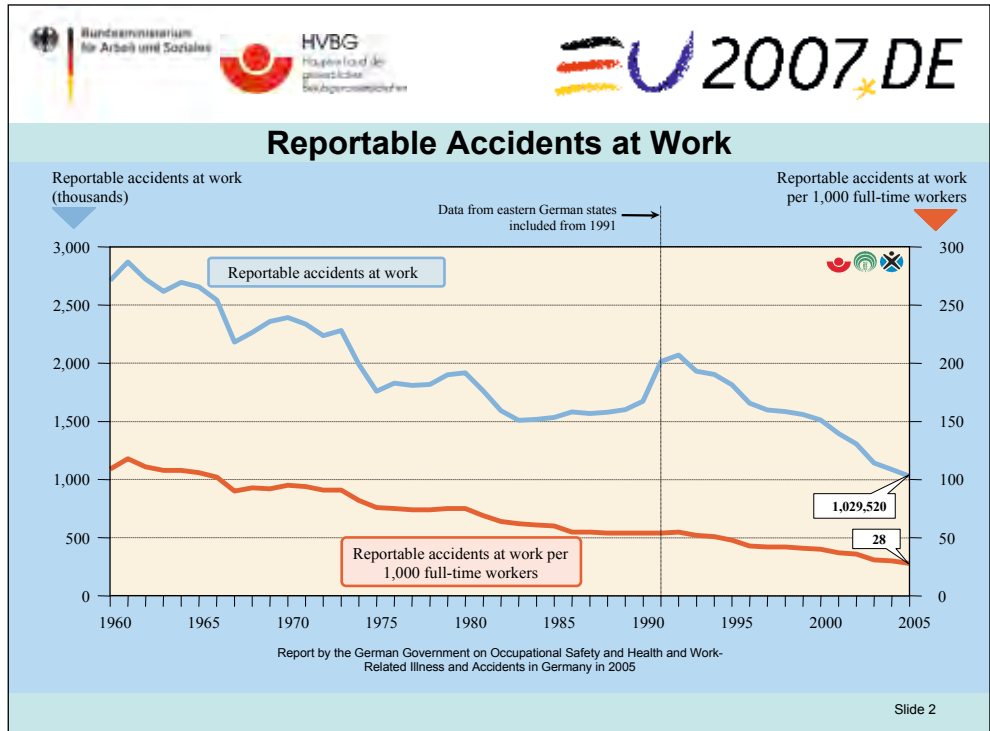
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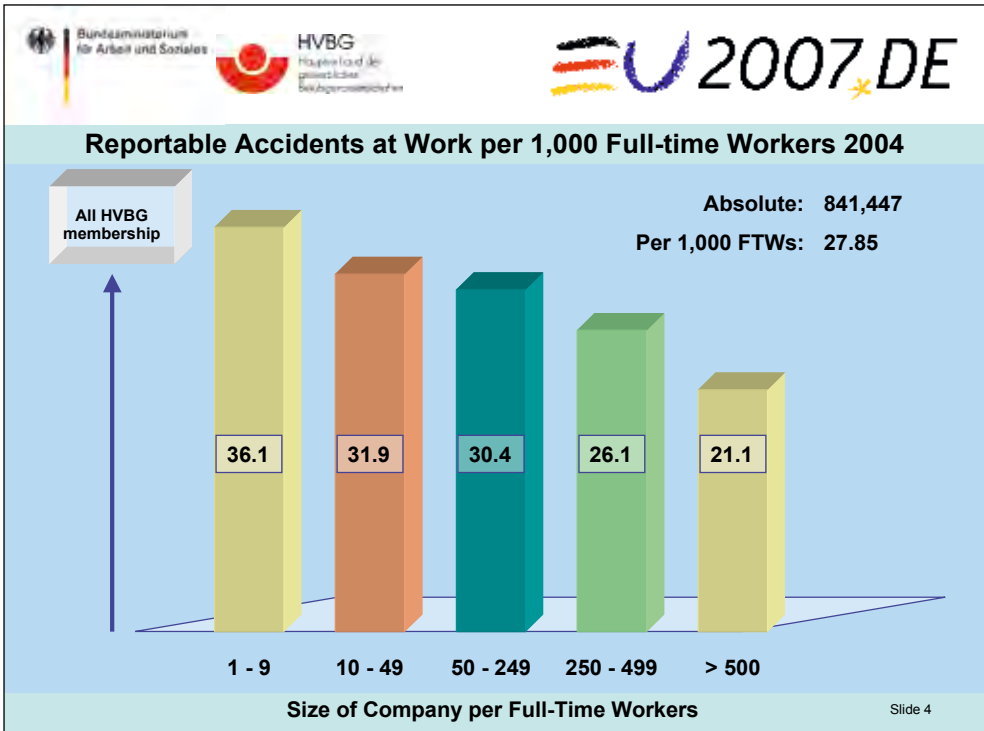
 Conference
on the Implementation of Article 7
of the Framework Directive
89/391/EEC, particularly in SMEs

 Germany
National Implementation of Article 7

Ms Antje Brehmer ► Federal Ministry of Labour and Social Affairs
Mr Gerhard Strothotte ► German Federation of Institutions for Statutory Accident
Insurance and Prevention (HVBG)

Slide 1





 Bundesministerium für Arbeit und Soziales  HVBG  2007 DE



Act on Occupational Physicians and Safety Specialists

Framework provisions: **Components** **Other regulations, e.g.:**

- Company doctors and Occupational Safety Specialists
- Appointment
- Responsibilities
- Expertise

- Cooperation among Company doctors and Occupational Safety Specialists
- OHS Committee

Slide 6

 Bundesministerium für Arbeit und Soziales  HVBG  2007 DE

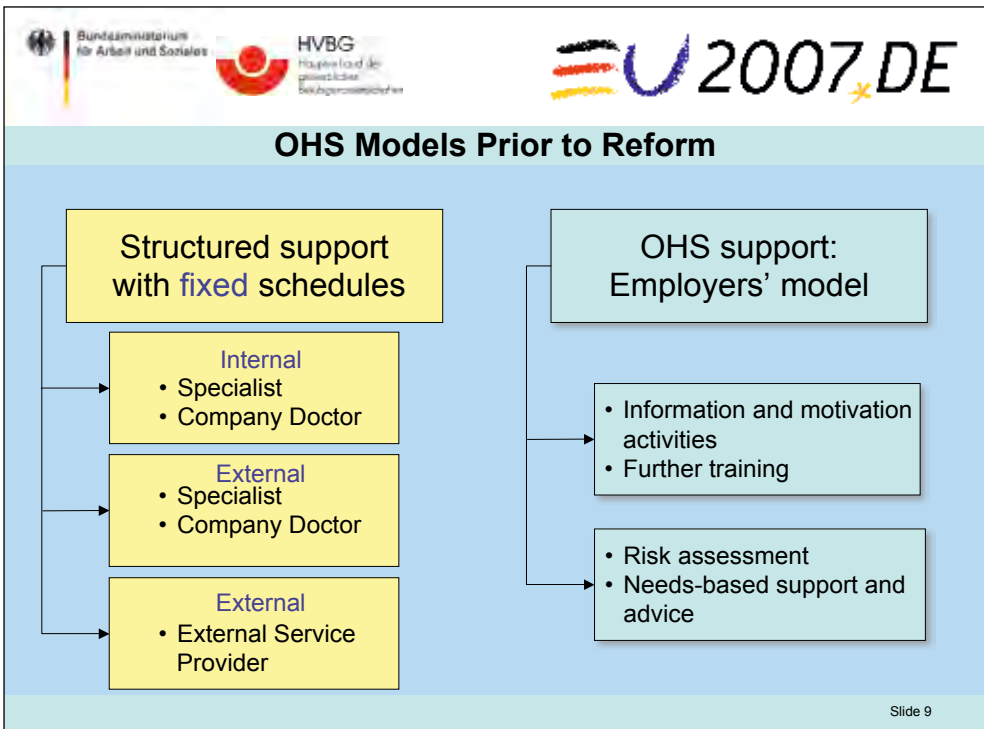
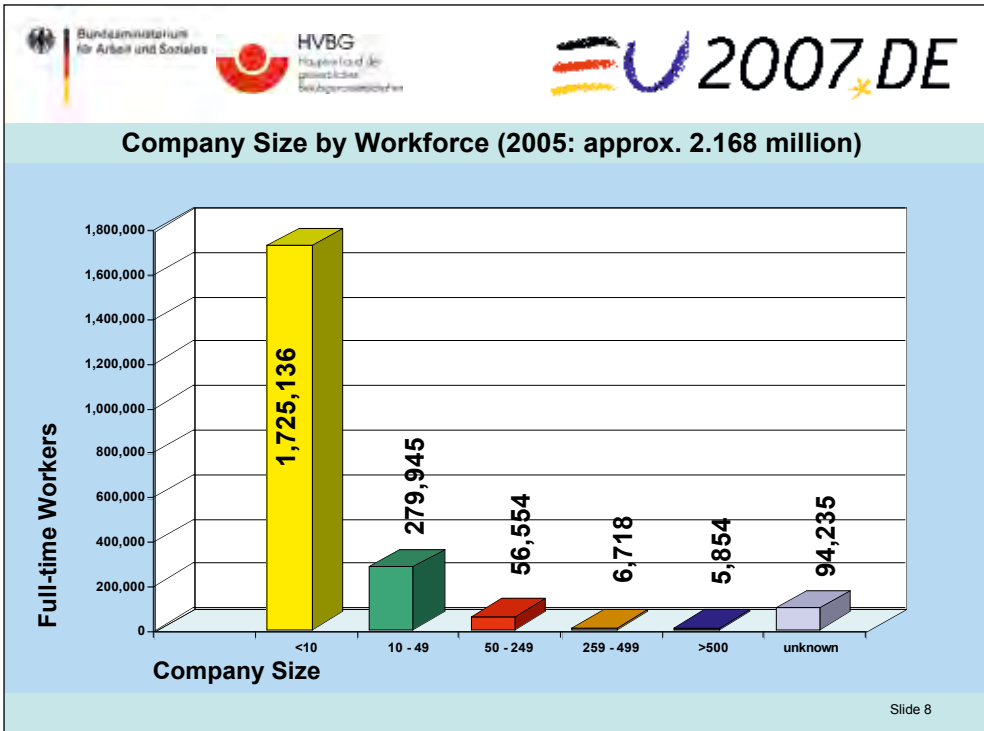
Reform of Accident Prevention Regulations




Simplifying Bureaucracy

- Employers to accept greater responsibility
- Flexible, needs-based strategies
- Further development of the 'employer model' for alternative OHS provision

Optimize OHS-service models in small businesses

Slide 7






New OHS Models for Small Businesses

Aims

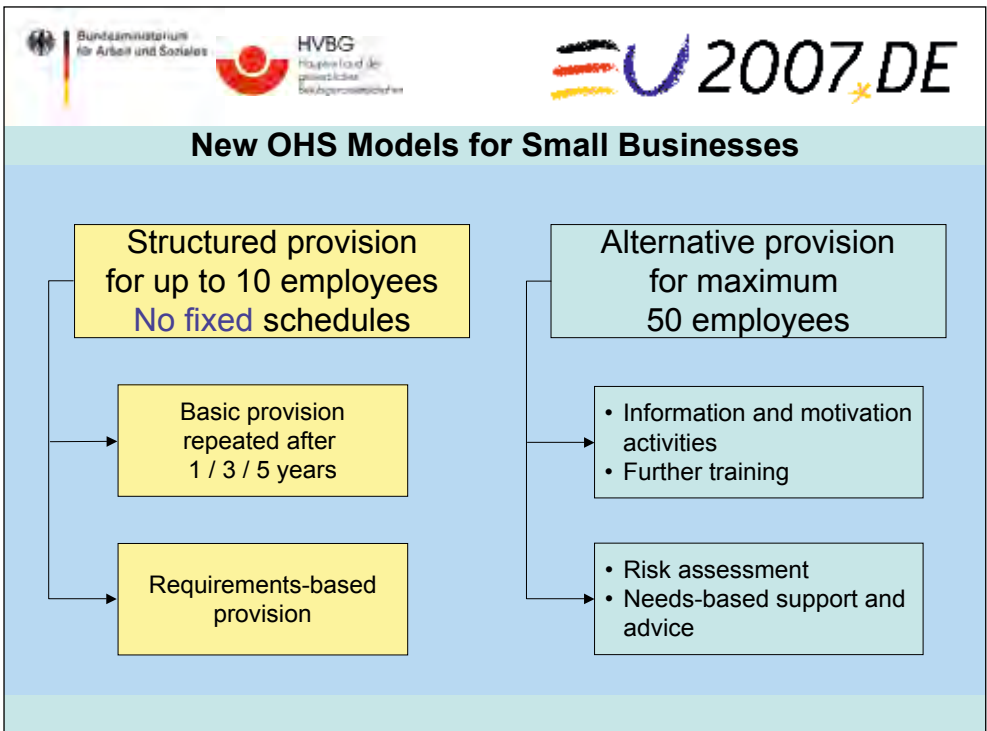
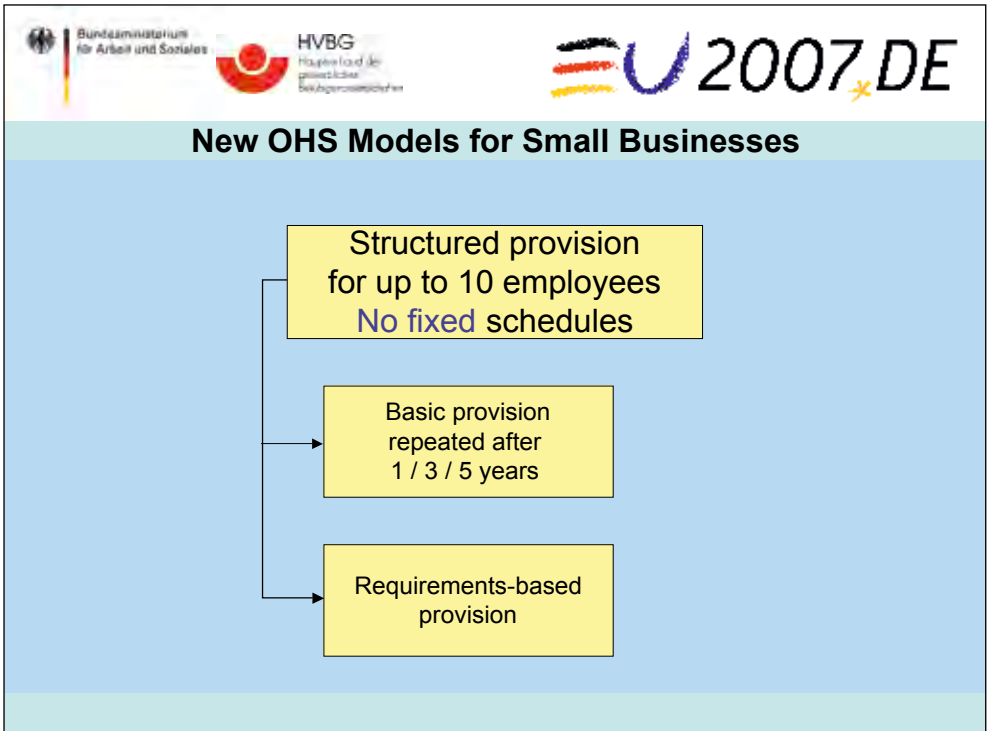
- ✦ Removal of impracticable requirements
- ✦ Uniform structure for alternative OHS-service models
- ✦ Structured support model for small firms with up to 10 employees
- ✦ Greater focus on risk situation in individual companies






Accident Prevention Regulation BGV A2: Structure

Company Size	Alternative Provision	Structured Provision
≤ 10 <small>Optional</small>	Yes (new model)	Yes (new model)
11 ≤ 50 <small>Optional</small>		Yes (schedules as before)
> 50	No	Yes (schedules as before)




Slide 11



 Bundesministerium für Arbeit und Soziales  HVBG Hauptverband der gewerkschaftlichen Betriebsräte 




Motivation and Information Activities

- ✦ Economic aspects of OHS
- ✦ Responsibility for OHS
- ✦ OHS organisation
- ✦ Risk assessments
- ✦ Company doctors' responsibilities

 Bundesministerium für Arbeit und Soziales  HVBG Hauptverband der gewerkschaftlichen Betriebsräte 

Reform ► Structured Provision in Businesses with > 10 Employees

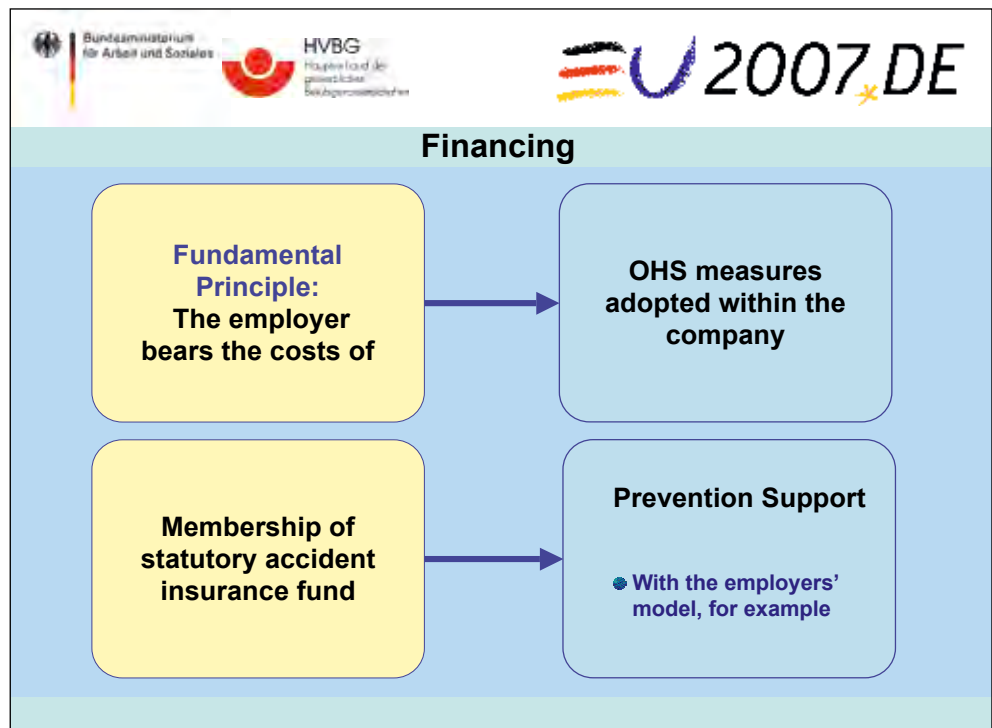
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graph LR; A[Basic provision (three risk groups)] --> B[Schedules for Businesses]; C[Company-specific provision] --> D[Identified on site]
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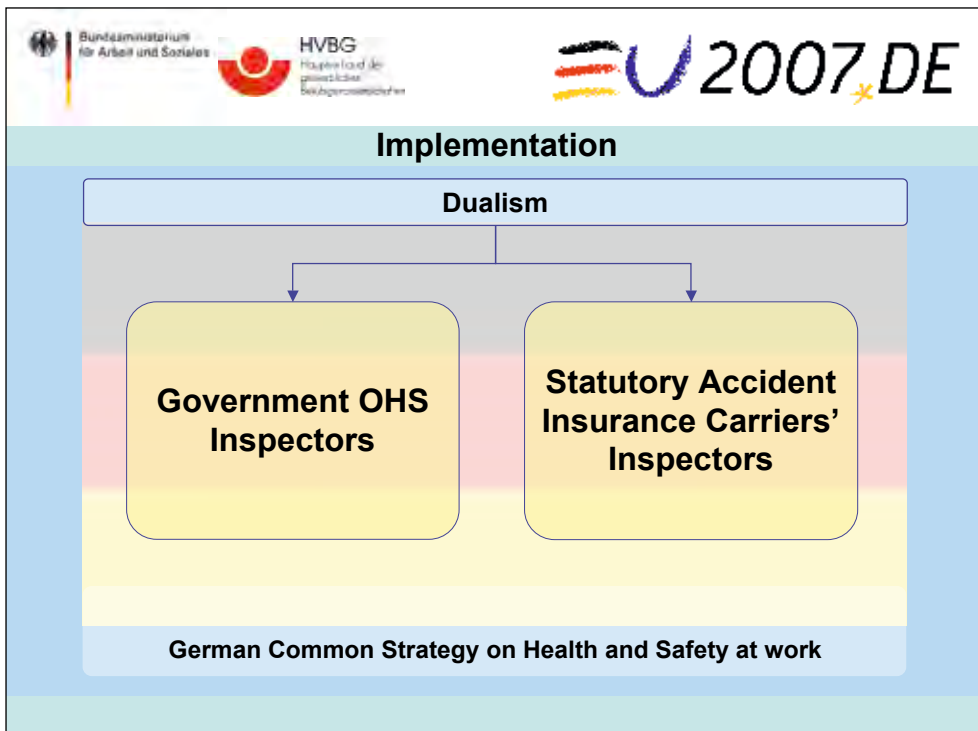




Accident Prevention Regulation BGV A2: Structure

Size of Company	Alternative Support	Structured Support
≤ 10 <small>Optional</small>	Yes (new model)	Yes (new model)
11 ≤ 50 <small>Optional</small>		Yes (new model from 2009)
> 50	No	Yes (new model from 2009)







This slide features the same logos as the previous slide: Bundesministerium für Arbeit und Soziales, HVBG, and EU 2007 DE. The main text reads "Thank you for your attention" in a large, black font, flanked by two yellow starburst symbols. Below this, the names and affiliations of the speakers are listed:

- Ms Antje Brehmer ▶ Federal Ministry of Labour and Social Affairs (BMAS)
- Mr Gerhard Strothotte ▶ German Federation of Institutions for Statutory Accident Insurance and Prevention (HVBG)

Slide 21

Sandra Caldwell

Health and Safety Executive (HSE)

Great Britain

Great Britain – national implementation of Article 7

Summary

The British approach to implementing Article 7, ensuring that employers make proper use of protective and preventive services, is founded on GB's over-arching philosophy on regulating health and safety risk at work, i.e. to adopt a goal-setting approach allowing employers to apply the method best suited to their circumstances to reach the goal, providing employers with help and advice to ensure they institute sensible control measures, backed by rigorous enforcement when they fail to reach it.

The goal as regards protective and preventive services, prescribed by statute, is that employers must make use of competent health and safety assistance to help them ensure they comply with their legal duties. It is for employers to make the arrangements which best suit their circumstances, i.e. whether they use in-house or external providers, the type of advice they require, how and when they make use of it – employers must assure themselves that the assistance they employ is competent for the circumstances in which they employ it. The cost is borne directly by the employer; support from the State generally comes in the form of advice and guidance from health and safety inspectors, publications, web-site material etc.

There are no statutorily prescribed qualification requirements for those providing health and safety assistance. However, there are a number of professional institutions, which prescribe for their members' levels of qualification and schemes of continuing professional development. Pertinent degrees, diplomas and postgraduate qualifications are offered by a variety of educational establishments. Assurance is provided on an informal basis by health and safety inspectors who are able to assess the quality of assistance provided in the workplaces they visit. Inspectors take enforcement action, such as prosecution in court proceedings or by the issue of Improvement Notices, when they come across poor quality assistance.

Health and Safety
Executive



Article 7 of the Framework Directive – implementation in Great Britain

Sandra Caldwell
Director Field Operations Directorate
Health and Safety Executive

GB philosophy



- **Goal**-setting regulations.
- Robust **enforcement** when duty-holders do not meet the goals.
- Management of risk should be on a **sensible** basis.

National legislation



- Management of Health and Safety at Work Regulation 7 - ‘...**competent**’ persons to assist..’.
- ‘Competent’ - sufficient training, experience or knowledge etc...
- **Enforcement** - e.g. prosecution via HSW Act, s. 36; Improvement Notices.

Financing



- **Employer pays**, in a free market.
- Indirect **State support** via its services (inspection, guidance, advice etc.).
- Workplace Health Connect

Qualification



- ‘Competence’ prescribed, but not the **means** to it.
- Gain qualifications via:
 - professional institutions (in occ. medicine, ergonomics, acoustics etc. etc.);
 - degrees, diplomas in occupational health and safety.

Work organisation



- ‘Competence’ also requires **experience, knowledge** of particular industry.
- ‘**In-house**’ provision of h&s assistance will often be the most suitable option.
- Technical, specialist advice usually from **external providers**.
- Advice needs to be **correct** and **sensible**.

Quality assurance



- **No formal**, prescribed system.
- Inspectors provide **informal** assurance through workplace contact.
- Inspectors take **enforcement action** (prosecution, Notices) when appropriate.

Enforcement



For example...

- **Prosecutions of consultants:**
 - poor risk assessment/system of work leading to serious accident at vacuum forming m/c;
 - failure to detect presence of asbestos;
 - failure to determine dust exposure accurately leading to employees exposed to above the hygiene limit

Enforcement



For example...

- **Improvement Notices issued:**
 - to consultancy providing consistently poor advice to clients;
 - to consultant who had consistently produced inadequate risk assessments.
- **Refusal to re-new asbestos licences**
 - over 200 in 6 years.

In conclusion



Experience suggests:

- ❑ Generally, providers of h&s assistance deliver a valuable and valued service.
- ❑ Improvement is required in some quarters.
- ❑ Overall, flexible goal-setting approach is effective.

Leo Suomaa

Ministry of Social Affairs and Health

Finland

Finland – national implementation of Article 7

National legislation dealing with (internal and external) protective and preventive services

In Finland, Article 7 of the Framework Directive has been transposed by two Acts.

First, Part 2 of the Occupational Safety and Health Act (738/2002) deals with the general obligations of an employer. As a rule, it is the employer that is required to take care of the safety and health of the employees at a workplace (Section 8). The employer may place another person to represent him or her. This person is called the employer's substitute. A substitute shall be sufficiently competent and have appropriate capabilities for attending to her or his duties. The employer shall define those duties accurately enough and ensure that the substitute meets the requirements. (Section 16)

Section 10.2 requires the employer to have adequate expertise for the analysis and assessment of the risks at work. If the employer does not have in-house expertise, he or she shall use external experts.

The employer shall make sure that the experts, whether internal or external, have adequate competence and other qualifications.

Section 10.2 explicitly refers to the Occupational Health Care Act (1383/2001). That is another main Act transposing Article 7.

The Occupational Health Care Act applies to work in which the employer has a duty to comply with the Occupational Safety and Health Act (OSHA, Section 2). According to the Occupational Health Care Act, the employer shall arrange occupational health care (Section 4). It is a legal obligation of each employer. There are no limits as regards, e.g., the field of economic activity or the size of the workplace.

Occupational health care (OHC) is arranged in order to prevent and control health risks and to protect and promote the safety of the employees (Section 4).

By the definition in the Act, occupational health care means the activities carried out by occupational health care professionals and experts that the employer has a duty to arrange by law and which are used to prevent work-related illnesses and accidents, promote health and safety at work and improve the working environment, the functioning of the work community and the health, working capacity and functional capacity of employees.

It is the duty of the OHC service provider to investigate and assess the healthiness and safety of the work and the working conditions through repeated workplace visits or audits and using other occupational health care methods (Section 12). The employer shall ensure that the workplace investigation document is kept on display at the workplace for employees to read (Section 25).

There are three alternatives that are available to an employer in order to organize occupational health care services (Section 7). First, an employer may acquire the services from a municipal health centre referred to in the Primary Health Care Act (66/1972, as amended). According to the Act, these services shall be available from health centres. It is mainly SME's that acquire their OHC services from health centres. Second, an employer may arrange the occupational health care services himself or together with other employers. This is an option that is used mainly by the biggest companies. Third, an employer may acquire the services from another unit or person entitled to provide occupational health care services.

In addition to occupational health care, an employer may also use services from other experts, if he or she so wishes. For instance, it is not unusual that insurance companies give advice and assistance to their customers as a part of the insurance policy.

Financing

It is a legal obligation of the employers to take care of the safety and health of their employees. Accordingly, it is the employer that chooses the measures for improving the working conditions and puts them into practice (OSHA, Section 8). Consequently, the employer finances the measures. This principle also covers protective and preventive services. In the OHC Act, there is a particular provision on the expenses. The employer shall arrange occupational health care at his own expense (Section 4). For the employees, the services are free of charge.

However, employers are entitled to receive compensation for the costs incurred in organizing occupational health care and other health care covered by the provisions of the OHC Act, as provided in the Sickness Insurance Act 364/1963. The Social Insurance Institution of Finland (or KELA as it is abbreviated in Finnish) compensates the employer 60 per cent of the costs of the compulsory preventive services and 50 per cent of the voluntary medical care provided by occupational health care. However, there is an absolute limit for the compensation. In the smallest workplaces (1–9 employees) maximum annual compensation is approximately 800 EUR for the preventive services. In the claim, the employer must classify the expenses into occupational health services and regular medical services.

Each insured person and each employer is under an obligation to pay health insurance contribution as prescribed in the Act.

Entrepreneurs and other self-employed persons are also entitled to receive compensation if they have arranged occupational health care for themselves.

Qualification

In principle, the employer shall make sure that the experts, whether internal or external, have adequate competence and other qualifications.

However, in the OHC Act there are special provisions on the qualification, education and training of OHC professionals and experts (Section 3).

First, an occupational health care professional means a health care professional as referred to in the Act on Health Care Professionals (559/1994), who is qualified as an occupational health care specialist or other licensed physician, or as a public health nurse, and has the necessary training to perform occupational health care.

Second, an occupational health care expert means a person qualified as a physiotherapist or psychologist and possessing sufficient knowledge of occupational health care, or a person who has occupational hygiene, ergonomics, technical or other similar education or training and sufficient knowledge of occupational health care or a person who is qualified as a specialist physician in an area other than occupational health care.

Occupational health care professionals and experts shall maintain the required knowledge and skills through sufficient continuing education. The employer of an occupational health care professional or expert has a duty to ensure that this person attends continuing education to maintain his professional skills sufficiently often and, at least once every three years. The continuing education duty also concerns health care professionals engaged in occupational health care as independent professionals.

The training of professionals and experts is organised by the Finnish Institute of Occupational Health as well as certain universities (e.g. Helsinki, Kuopio, Oulu, Tampere, and Turku). Provisions concerning the qualifications of professionals and experts are given in a Government Decree (1484/2001). The Ministry of Social Affairs and Health issues instructions on the content, quality, amount and organization of continuing education.

Work organisation

According to the OHC Act, in matters concerning the planning, implementation, development and monitoring of occupational health care, the employer shall make sufficient use of occupational health care services, as required for organizing occupational health care in accordance with good occupational health care practice. (Section 5)

The employer shall prepare the necessary decisions for organizing the occupational health care in cooperation with the employees or their representatives. (Section 8)

However, occupational health care professionals and experts shall be professionally independent of the employer, the employees and their representatives. (Section 5)

Good occupational health care practice is defined in Government Decree (1484/2001) on the principles of good occupational health care practice, the content of occupational health care and the qualifications of professionals and experts. The aim of occupational health care is to ensure that the work, the working environment and the work community are healthy and safe, to prevent work related health risks and problems and to maintain, promote and monitor the health, working capacity and functional capacity of employees at the different stages of their working careers.

In Finland, there are approximately 260 000 workplaces and 2 200 000 employees. On the average, enterprises and work places are small. Almost all or 98,8 per cent of all work places have less than 50 employees. On the average, there are 400 – 450 employees per one OHC professional and expert. It is a rough indicator of the volume and intensity of the OHC in Finland.

Quality assurance

In Finland, it is a legal obligation of the employer to make sufficient use of occupational health care professionals. (OHCA, Section 5.1) Occupational health care professionals are defined in the Act (Section 3).

A professional means a health care professional as referred to in the Act on Health Care Professionals (559/1994), who is qualified as an occupational health care specialist or other licensed physician, or as a public health nurse, and has the necessary training to perform occupational health care. To make it simple, a certified doctor who is qualified as an occupational health specialist is such a professional.

In addition to the professionals the employer shall make sufficient use of any experts that these professionals deem essential, as required for organizing occupational health care in accordance with good occupational health care practice. (OHCA, Section 5.1)

According to the Decree, the quality of occupational health care is assessed by monitoring the impact of the measures taken on the working environment and work community; employee exposure, accidents and occupational diseases; health, working capacity and sickness absences; the working methods of occupational health care; implementation of the aims and suggestions for action; and customer satisfaction.

The coverage and quality of the OHC services are regularly monitored by FIOH, the Finnish Institute on Occupational Health.

Enforcement

As a rule of thumb, the bigger the work place the better the coverage and quality of OHC services. In practice, all the big work places have arranged OHC as required in the Decree on the principles of good occupational health care practice.

However, most of the Finnish work places are small. It is a fact that in many small work places OHC is organised only on paper. Good occupational health care practice is hardly

observed. Even the corner stones, for instance investigation and assessment of health and safety at work and working conditions through repeated workplace visits, have been omitted in micro enterprises.

From the legal point of view, the occupational safety and health authorities shall ensure that the employer has arranged occupational health care as referred to in OHC Act or in legislation issued under it (Section 24). However, there are 260 000 work places and only 350 to 400 occupational safety and health inspectors in the field operations. In practice it is impossible to inspect every work place in order to ensure that OHC has been arranged.

As regards medical supervision of occupational health care services, it is not the responsibility of the occupational safety and health authorities, but of the Ministry of Social Affairs and Health and the Provincial State Offices. There are approximately 750 to 800 OHC service providers in Finland, and the number of OHC professionals and experts is approximately 5000.

As a whole, the authorities and social partners in Finland are satisfied with the Finnish way of implementing Article 7. If there has been criticism, it has dealt with certain details:

- The coverage of the OHC services. According to the monitoring reports, in the smallest work places (1-9 employees) only 65 % of the total number of the employees is covered by the services.
- The alleged lack of multi-disciplinarity of the OHC services. According to the legislation, OHC services are multidisciplinary services, but in reality that might not always be the case.
- The duties of the employer himself in relation to the duties of the OHC services. For instance, there has been discussion on the employer's risk assessment in comparison with the work place investigation document issued by the OHC.

References:

<http://www.stm.fi/Resource.phx/publishing/documents/8102/index.htm>

For the full text of 1383/2001, 1484/2001, and 738/2002 consult

<http://www.finlex.fi/fi/laki/kaannokset/>



MINISTRY OF
SOCIAL AFFAIRS AND HEALTH

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ON THE IMPLEMENTATION OF ARTICLE 7 OF THE FRAMEWORK DIRECTIVE 89/391/EEC, PARTICULARLY IN SME'S

6 March, 2007 Dortmund

Mr Leo Suomaa
Head of Legislation Unit
Dept. for OSH, Ministry of Social
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<http://www.stm.fi/Resource.phx/eng/index.htm>




MINISTRY OF
SOCIAL AFFAIRS AND HEALTH

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National legislation

- Occupational Safety and Health Act (738/2002)
 - the general obligations of an employer
- Occupational Health Care Act (1383/2001)
 - the employer shall arrange occupational health care
- Government Decree (1484/2001) on the principles of good occupational health care practice




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3

Occupational Health Care Act

- applies to work in which the employer has a duty to comply with the OSH Act
 - all the work done by employees
- the employer shall arrange occupational health care
 - a legal obligation of each employer
 - no limits as regards, e.g., the field of economic activity or the size of the workplace



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Occupational Health Care Act

- OHC is arranged in order to prevent and control health risks and to protect and promote the safety of the employees
- OHC service provider investigates and assesses the healthiness and safety of the workplace
- OHC workplace investigation document is kept on display at the workplace for employees to read




Occupational Health Care Act

- an employer may acquire the services from a health centre referred to in the Primary Health Care Act (66/1972)
 - these services shall be available from HC's
 - SME's usually acquire their services from HC's
- an employer may arrange the OHC services himself or together with other employers
- an employer may acquire the services from another unit or person entitled to provide occupational health care services



OHC services

- it is a legal obligation to organize multidisciplinary OHC services
- in addition to OHC, an employer may also use services from other experts, if he or she so wishes
 - e.g. as a part of the insurance policy




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Financing

- a legal obligation of the employers to take care of the safety and health of their employees
 - the employer chooses the measures for improving the working conditions
 - the employer finances the measures
- the employer shall arrange OHC at his own expense
 - for the employees, the services are free of charge



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Compensation

- employers are entitled to receive compensation for the costs incurred in organizing OHC
 - 60 per cent of the costs of the compulsory preventive services
- The Social Insurance Institution of Finland (or KELA) compensates
- each insured person and each employer is under an obligation to pay health insurance contribution




Qualification

- the employer shall make sure that the experts, whether internal or external, have adequate competence and other qualifications
- special provisions on the qualification, education and training of OHC professionals and experts are included in the OHC Act



Work organisation

- the employer shall make sufficient use of OHC services
- the employer shall prepare the necessary decisions for organizing the OHC in cooperation with the employees
- OHC professionals and experts shall be professionally independent of the employer and the employees




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Work organisation

- good OHC practice is defined in Government Decree (1484/2001)
- on the average, there are 400 – 450 employees per one OHC professional and expert



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Quality assurance

- OHC professionals are qualified according to the Act 559/1994
- the employer shall make sufficient use of any experts that these professionals deem essential




Quality assurance

- the quality of OHC is assessed by
 - monitoring the impact of the measures taken on the working environment and work community
 - employee exposure, accidents and occupational diseases
 - health, working capacity and sickness absences
 - the working methods of OHC
 - implementation of the aims and suggestions for action
 - customer satisfaction



Quality assurance

- the coverage and quality of the OHC services are regularly monitored by FIOH, the Finnish Institute on Occupational Health




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Enforcement

- the OSH authorities shall ensure that the employer has arranged OHC
 - 260 000 work places and only 350 – 400 OSH inspectors
- medical supervision of OHC services by the Ministry of Social Affairs and Health and the Provincial State Offices
 - approximately 750 - 800 OHC service providers



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Critical voices

- low coverage of the OHC services in the smallest work places (1- 9 employees)
- an alleged lack of multi-disciplinarity of the OHC services
- the duties of the employer himself in relation to the duties of the OHC services



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References

- <http://www.stm.fi/Resource.phx/publishing/documents/8102/index.htm>
- For the full text of 1383/2001, 1484/2001, and 738/2002 consult <http://www.finlex.fi/fi/laki/kaannokset/>

Philippe Jandrot

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France**

France – national implementation of Article 7

1. Summary “Legislative and Regulatory Aspects”

The Framework Directive 89-391 was transposed into French law in the form of Law No. 91-1414 of 31 December 1991.

Since France was the only country in Europe guaranteeing protection in terms of occupational medicine for all employees – regardless of their work or company size – the French authorities endeavoured during the negotiations to ensure that the structure of occupational medicine facilitated the correct implementation of Article 7. In a declaration annexed to the protocol of the Council of Ministers concerning approval of the Directive, the European Commission had confirmed that the occupational medical services, which had existed in France since 1946, could be regarded as the competent preventive services in the meaning of the Directive.

The Commission subsequently revised its opinion and initiated extra-judicial steps against France and other states of the European Union. In the notice to France published on 4 March 1997 Calling on France to fulfil its obligations, the Commission expressed the view that the occupational medical services were not sufficient to comply with complete transposition of Article 7 of the Directive.

In a reasoned opinion dated 26 June 2002, the Commission came to the conclusion that the French system of occupational medicine did not comply with complete transposition of the Directive. It expressed the view that the “occupational medicine only performs part of the tasks assigned in Article 7 of the Directive, which, according to Art. L 241-2 of the Labour Code is aimed at avoiding any deterioration in the workers’ state of health. Consequently the measures taken in connection with safety are not covered, an aspect which belongs to the protective measures and to the prevention of occupational hazards according to Art. 7, section I of the Directive”.

In order to fulfil the obligation laid down by the Community, in 1997 the French authorities expanded the services in the field of prevention further by making greater use of the facilities of the occupational medical services and by funding the involvement of additional experts (especially on a technical and organisational level).

The social partners joined in these endeavours and at the end of 2000 they concluded the cross-occupation agreement on health protection. The agreement confirms the need for an effective interdisciplinary mode of working.

On this basis the Law 2002-73 was adopted on 17 January 2002 (based on Article L.241-2, Paragraphs 2 and 3 of the Labour Code). Article 193 of this law forms the basis for the interdisciplinary approach. It provides for the introduction of “services for health protection at the workplace” by the reorganisation of the occupational medical services. These services, working together with the companies concerned, either make use of the expertise of the Regional Health Insurance Funds, the Professional Federation for Accident Prevention in the Construction Industry or the Regional Associations in the Network of the National Agency for Improving Conditions at the Workplace, or they approach other individuals and committees whose specialist competencies are recognised by the Regional Health Insurance Funds, the Professional Federation for Accident Prevention in the Construction Industry or the Regional Associations of the Network of the National Agency for Improving Conditions at the Workplace. Furthermore this article lays down that “when calling on the expertise mentioned in the foregoing paragraph, the rules of the independence of the medical occupations and of the corresponding individuals and organisations shall be adhered to, which are also laid down by the decree of the State Council”.

The legislator has therefore laid down the interdisciplinary approach as mandatory and in the transposition has pursued in particular the goal of ensuring the quality of the measures taken in the enterprise.

The Decree No. 2003-546 of 24. June 2003 lays down the implementation regulations for the law of 17 January 2002:

- It describes as “occupational safety and health intermediaries” (IPRP = *intervenants en prévention de risques professionnels*) the individuals and committees to whom the services of health protection at the workplace and the enterprises have to turn.
 - In the case of a measure limited in time, the enterprise or the service may, within the framework of an agreement concerning objectives, either approach the three organisations specified in the law or an authorised person or committee;
 - In the case of a permanent task the enterprise or service may appoint an external expert or call in an expert employed by the enterprise, and both must be authorised;
- Like the occupational medical practitioners, the IPRP has the task of protecting of the health and safety of workers and of ensuring an improvement in working conditions in terms of prevention.
- The engagement of an IPRP is instigated by the employer or the president of the extra-company health service; the engagement is based on a contract or takes the form of the appointment of appropriate personnel.

The Order of 24 December 2003 lays down the authorisation formalities for the IPRP:

- It provides for the establishment of 5 interregional colleges. Each college consists of a representative of the CRAM*, the ARACT* and the OPPBTP*.
- The regional bodies issue the authorisation to the IPRP taking into account the
 - candidate’s independence based on a sworn statement given by him
 - the candidate’s specialist knowledge on the basis of
 - his titles and diplomas
 - or his knowledge gained in the fields of hazard prevention at the workplace and the improvement of working conditions.

The college’s decision, taken on behalf of and under the responsibility of the state, is an administrative decision against which an appeal can be lodged with the competent bodies.

- The Order lays down that the IPRP’s task is not compatible with duties as an elected representative of a CHSCT* or CTR*.

The Decree of 28 July 2004 modernises the organisation and mode of working of the services for health protection at the workplace.

- It modifies the distribution of functions for occupational medicine, favours measures for improving the working environment and renders the services’ mode of working more transparent.
- It reduces the number of visits to the doctor, but highly exposed workers or those at special risk enjoy the advantage of closer medical surveillance.

Funding

The assignment of the IPRPs is either funded directly by the enterprise or the funding comes through the external services for health protection at the workplace.

The IPRPs’ work is within the remit of the commercial sector and the authorised persons are therefore subject to free competition.

2. Results balance sheet

The 5 colleges for the authorisation of IPRPs were set up in 2004.

An initial balance sheet drawn up at the end of 2005 showed that

- 835 persons and
- 119 organisations had been authorised

The three fields provided for in the legislative texts are represented as follows with respect to these authorisations

- 734: Technology
- 697: Organisation
- 28 : Medicine

The results regarding application will be drawn up in a balance sheet after the end of the four-year transposition period.

* Abbreviations and their meanings

IPRP	<i>Intervenants en Prévention des Risques Professionnels</i> Occupational Safety and Health Intermediaries
CRAM	<i>Caisse Régional d'Assurance Maladie</i> Regional Health Insurance Fund
ARACT	<i>Association Régionale pour l'Amélioration des Conditions de Travail</i> Regional Association for the Improvement of Working Conditions
OPPBTP	<i>Organisme Professionnel de Prévention du Bâtiment et des Travaux Publics</i> Professional Organisation for the Prevention of Accidents in the Construction Industry
CHSCT	<i>Le comité d'hygiène, de sécurité et des conditions de travail</i> Committee for Hygiene, Safety and Conditions at the Workplace
INRS	<i>Institut National de la Recherche et de Sécurité</i> National Institute for Research and Safety



1. LEGISLATIVE AND REGULATORY ASPECTS (1/2)

Act of 31 December 1991 : transposing Directive 89/391, bringing occupational medicine services into compliance with the requirements of Article 7

4 March 1997 : notice to France by the Commission, alleging that occupational medicine services do not comply with complete transposition of Article 7

26 June 2002 : reasoned Opinion by the Commission.

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EU 2007 Conference on implementation of Article 7

March 6th, 2007



1. LEGISLATIVE AND REGULATORY ASPECTS (2/2)

Act of 17 January 2002 : establishing the principle of pluridisciplinarity, making its application **binding**; providing a framework for its implementation

Decree of 24 June 2003 : establishing "**occupational safety and health intermediaries**" (*intervenants en prévention des risques professionnels - IPRP*) and their conditions of hiring and service;
Strictly limiting the remit of IPRPs to safety and health

Order of 24 December 2003 : establishing the procedures and **accreditation** criteria of the IPRP

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EU 2007 Conference on implementation of Article 7

March 6th, 2007



2. FUNDING

- No specific set of regulations
- Entirely within the responsibility of the undertakings, be it directly, be it by funding external occupational medicine services
- The activity of the IPRPs is within the remit of the commercial sector, and is therefore subject to free competition between all parties accredited to operate in this field.

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2. AUTHORISATION

- 3 “safety and health bodies” (CRAM’s, ARACT’s, OPPBTP) are accredited by the Act of 17 January 2002;
- 5 interregional colleges (CRAM’s, ARACT’s, OPPBTP) for the accreditation of IPRPs, on the basis of the following criteria:
 - ✓ declaration of interest given in a sworn statement by the candidate
 - ✓ titles and diplomas relating to experience in the field
 - take decisions in the name and on the responsibility of the State in the following three fields:
 - technology
 - organisation
 - medicine.

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3. QUALIFICATION of the IPRPs

- The accreditation criteria define the qualification elements.

4. STATUS

- The status of occupational physicians is protected by the specific documents setting out the framework for their position as salaried employees of the undertaking or of an external service.
- The IPRPs have protected status in principle without a regulation which defines the regulations guaranteeing this protection. They can be :
 - o salaried employees of the undertaking, or
 - o salaried employees of external services.

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4. Status

- The status of occupational physicians is protected by the specific documents setting out the framework for their position as salaried employees of the undertaking or of an external service.
- The IPRPs have protected status in principle, but there is no regulation which defines the regulations guaranteeing this protection. They can be:
 - o salaried employees of the undertaking,
 - o salaried employees of external services, or
 - o self-employed.

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5. ORGANISATION

- Consolidation of activity at the workplace for occupational physicians, whilst retaining independent services for large undertakings and external services for the others;
- IPRPs recruited by company directors or chairmen of the external occupational health services;
- If an external IPRP is recruited, goal agreement is established.

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6. STOCKTAKE (end of 2005)

- Staff of 6,000 and 7,000 occupational physicians with a falling number
- 5 accreditation bodies IPRP established in 2004
- 835 individuals accredited as IPRPs
- 119 bodies accredited as IPRPs
 - 734 “technical” accreditations
 - 697 “organisational” accreditations
 - 28 “medical” accreditations

9

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Poland – national implementation of Article 7

Summary

The main Polish legal acts implementing Art. 7 of the Framework Directive 89/391 are the following:

- Labour code,
- Resolution of the Council of Ministers on occupational health and safety services,
- Act on occupational medicine services.

In accordance with the Labour code, the employer employing more than 100 workers is obliged to set up occupational health and safety services which fulfil advisory and control functions in occupational health and safety. The employer employing up to 100 workers may entrust with the tasks of occupational health and safety services one of workers performing other work duties provided he/she has appropriate qualifications.

The employer who has completed a training necessary to perform the tasks of occupational health and safety services is allowed to perform the tasks by himself if he employs up to 10 workers or up to 20 workers if he is qualified to the group of activity for which not higher than the third risk category has been determined, within the meaning of social insurance regulations on accidents at work and occupational diseases.

If there are no properly qualified employees to perform those tasks, the employer is allowed to entrust the performance of occupational health and safety service tasks to specialists from outside the company. The OSH specialist and the employee who has been entrusted with the tasks of occupational health and safety service as well as the specialist from outside the company should meet the qualification requirements necessary to perform the tasks of occupational health and safety service and complete the training in the field of occupational health and safety for the safety professionals.

Protection of workers' health against hazardous conditions in the working environment is also a task lying within the scope of operations of occupational medicine services. These services usually take form of an external entity providing preventive health care services to workers on the basis of a contract with the employer.

The Polish legal acts set out in detail 22 tasks that occupational health and safety services are entrusted with. The basic tasks include the following:

- carrying out the control and analysis of working conditions;
- assessing the circumstances the circumstances and causes of occupational accidents;
- participating in the assessment of occupational risk related to the performed work;
- providing expert opinion and advice on work organisation and on occupational safety regulations and principles.

The recent years have also seen changes in requirements regarding educational background and qualifications of persons entrusted with occupational safety and health tasks. At present OSH services' workers employed at the lowest position that of an OSH inspector are required to hold a title of an OSH technician. Those employed at higher positions of a specialist or a senior specialist in OSH must have a higher education in OSH or a postgraduate studies in this field.

With regard to Certification of Personnel's Competence in OSH in Poland, there is a voluntary certification system run by CIOP-PIB. CIOP-PIB conducts certification of:

- OSH lecturers;
- OSH specialists;
- Specialists in measurement of working conditions parameters;

- Auditors of OSH management systems;
- Consultants on system management of OSH;
- OSH consultants in SMEs;

Verification of competence and certification of its members and other OSH services' workers is also carried out by All-Poland Association of Workers of OSH Services.

The slide features a yellow-to-white gradient background. In the top left corner, the logo 'CIOP PIB' is displayed. In the top right corner, there is a small red and white rectangular icon. The main title 'OSH services in Poland' is centered in a large, bold, black font. Below the title, the author's name and affiliation are listed in a smaller, purple font: 'M.Sc. (Eng.) GRZEGORZ DUDKA', 'Central Institute for Labour Protection', and '– National Research Institute'. At the bottom of the slide, a dark blue horizontal bar contains the text 'Central Institute for Labour Protection – National Research Institute' in white, with a small white number '1' in the bottom right corner.



Contents:

1. OSH services in Poland:
 - – organisation
 - – tasks
 - – rights
2. Development of OSH services in Poland
3. Occupational medicine services



POLAND

Population - 38,2 M

Employed - 12,9 M

Unemployed - 2,3 M

GDP per capita - 13 275 \$





WORKING CONDITIONS IN POLAND IN 2005

84 402 accidents at work

468 fatal accidents



956 serious accidents

CIOP  **PIB** 

History of occupational health and safety services in Poland

- **1920** - the workers representative participated in the investigations on accidents at work
- **1929** - the “Occupational Safety and Hygiene Office” in steel plants “Pokój” and “Balidon”
- **1933 r.** – occupational health and safety services were appointed in all plants subordinated to the Minister of Military Affairs
- **1 August 1953** - The official date for the establishment of occupational health and safety services in Poland
- **2003** - The 50th anniversary of the creation of occupational health and safety services in Poland

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Legal basis

Labour code 2004

external service

one of the workers

occupational health and safety services

employer

max 3. risk category

0 10 20 100 number of workers

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Tasks of occupational health and safety services




- participation in assessment of occupational risk;
- control of working conditions;
- keeping the records related to occupational accidents and occupational diseases;
- participation in assessing the circumstances and causes of occupational accidents;
- providing advise on occupational safety rules and principles;
- providing advise on the organisation of work;
- providing advise on choice of personal protective equipment;

Tasks of occupational health and safety services




- participation in the work of the commission of occupational health and safety;
- co-operation with a physician exercising preventive treatment over the workers;
- participation in the preparation of modernisation and development plans of the company;
- giving opinion on detailed instructions related to occupational health and safety at particular workplaces.

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The rights of the occupational health and safety services

- controlling the state of occupational safety and hygiene;
- recommending to eliminate the stated accidental hazards and inadvertence in the field of occupational health and safety;
- presenting to the employer the proposal of awarding and punishing the workers;
- immediately stop the work of a machine or other technical device in case of the occurrence of direct life or health hazard of a worker or other people;
- immediate removing from work an employee performing forbidden work;
- asking the employer to immediately stop the work in the company, if direct life or health hazard of workers or other people has been stated.

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Competence of occupational health and safety services

Position	Requirements:
OSH inspector	OSH technician
OSH senior inspector	OSH technician, and three year's work experience in OSH services
	Higher education in OSH
	Postgraduate studies in OSH
OSH specialist	Higher education in OSH and one year's work experience in OSH services
	Postgraduate studies in OSH and one year's work experience in OSH services
Senior OSH specialist	Higher education in OSH and three year's work experience in OSH services
	Postgraduate studies in OSH and three year's work experience in OSH services
Chief specialist in OSH	Higher education in OSH and five year's work experience in OSH services
	Postgraduate studies in OSH and five year's work experience in

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Basic data of the OSH services in Poland

according to research conducted by CIOP-PIB under the auspices of ENSHPO in 2002

% male	80%
% full time in safety	53%
% internal/external/other	94 / 3 / 3%
% working for only 1 company	38%
% Education level: secondary / college / higher / postgraduate courses	38 / 14 / 29 / 17%

Main groups of tasks carried out by Polish safety professionals:

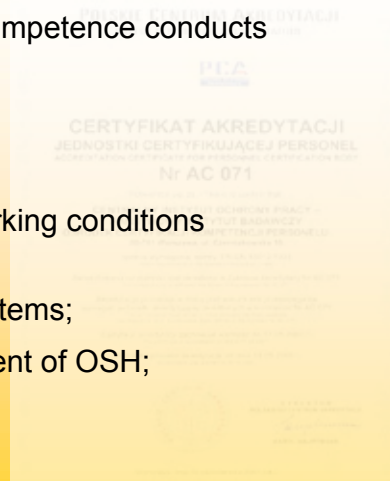
- risk assessment;
- investigation of accidents at work;
- training and informing;
- allocation of personal protective equipment;
- controls at workplaces;
- broadening of knowledge and competences from the field of OSH.



Certification of OSH personnel

CIOP-PIB Centre of Personnel's Competence conducts certification in:

- OSH lecturers;
- OSH specialists;
- Specialists in measurement of working conditions parameters;
- Auditors of OSH management systems;
- Consultants on system management of OSH;
- OSH consultants in SMEs;




CIOP PIB 

Creating a network of regional OSH centres

Project financed within Transition Facility 2005

- creating a network of regional training, consultation and promotion centres operating in the field of OSH, accredited and co-ordinated by CIOP-PIB;
- developing competencies of OSH services and the National Labour Inspectorate in activities connected with implementation of legal requirements in force resulting from the Framework Directive.

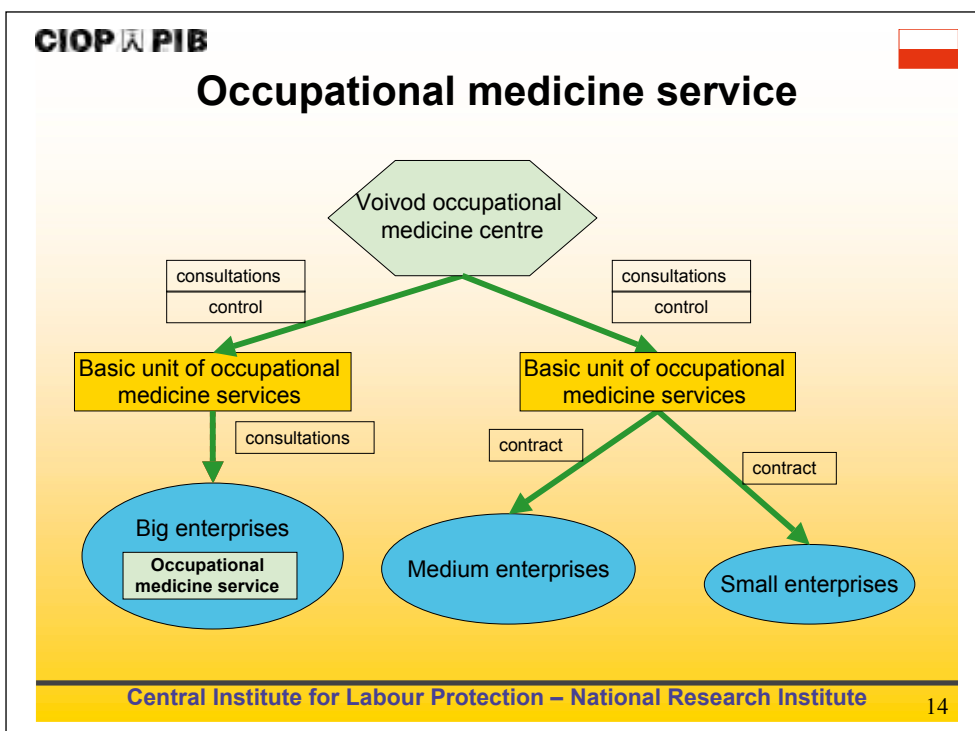
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Regional OSH centres - foreseen scheme

→ Basic tasks of OSH services
- - - - - → Consultations and/or highly specialised services (scope depends on the occupational risk level and a number of workers)

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Tasks of occupational medicine services

- reducing harmful influence of work on worker's health (in this risk assessment);
- providing preventive health services for workers;
- organising and providing first aid support at workplace;
- initiating and conducting health promotion activities;
- initiating employer's activities for the benefit of workers' health protection and providing assistance in their implementation;
- conducting analysis of workers' health;
- advising workers on principles of reducing occupational risk;

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Marc De Greef

PREVENT

Belgium

Implementation of Article 7 in other Member States, based on the study “Organisation of external protective and preventive services in 15 Member States of the European Union”

External OSH services in Europe

Results of a comparative study

Prof. Marc De Greef
Managing director

Content

1. Context
2. Methodology
3. Results
4. The future of OSH services
5. Webfeature

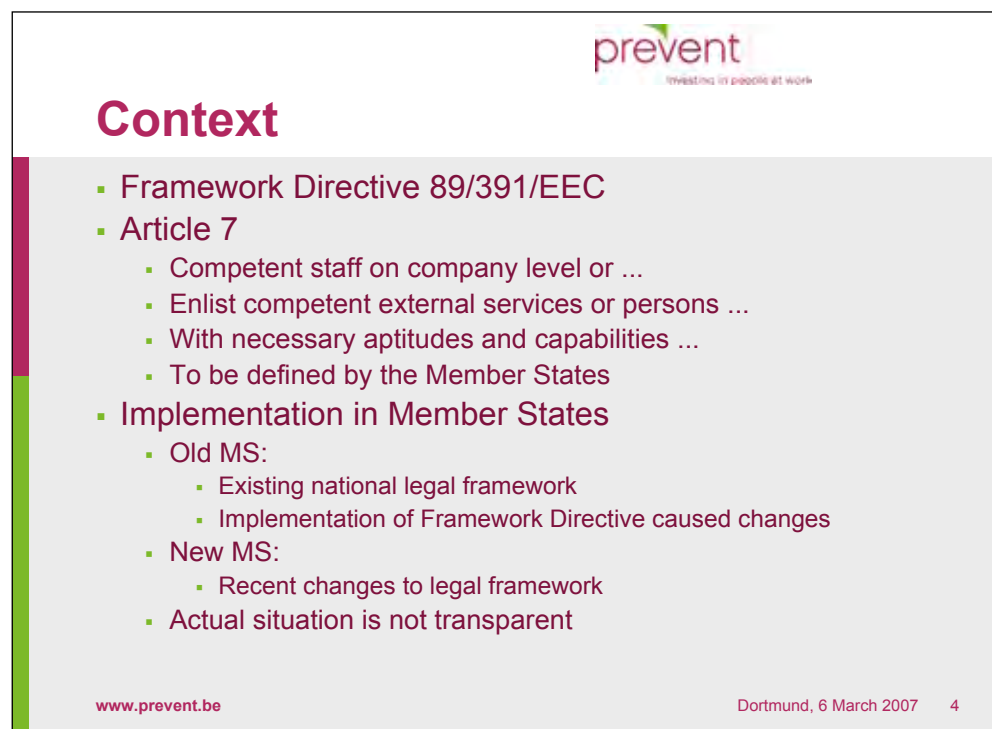


prevent
investing in people at work

1 Context

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This slide features a large, light gray number '1' in the center, with the word 'Context' written in a bold, dark red font across its middle. The background is a light gray gradient. The 'prevent' logo is in the top right corner, and the website URL and event information are at the bottom.



prevent
investing in people at work

Context

- Framework Directive 89/391/EEC
- Article 7
 - Competent staff on company level or ...
 - Enlist competent external services or persons ...
 - With necessary aptitudes and capabilities ...
 - To be defined by the Member States
- Implementation in Member States
 - Old MS:
 - Existing national legal framework
 - Implementation of Framework Directive caused changes
 - New MS:
 - Recent changes to legal framework
 - Actual situation is not transparent

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This slide contains a bulleted list of information under the heading 'Context'. The list covers the Framework Directive 89/391/EEC, Article 7, and implementation in Member States, distinguishing between 'Old MS' and 'New MS'. The 'prevent' logo is in the top right, and the website URL and event information are at the bottom.



2
Methodology

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Methodology

- Objective:
 - Analysis of the national system of external OSH services in 15 MS
- Instruments:
 - Study of literature and internet sources
 - Survey and interviews of national experts
- Partners
 - Mensura: Belgian external OSH service
 - Experts in Member States

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Methodology

- Research areas:
 - The general legal OSH framework, with special attention to the implementation of the Framework Directive (Art. 7)
 - The role and structure of the external OSH services
 - The relationship between the external OSH services and other actors
 - The impact of the external OSH services
 - Changes that might affect external OSH services in the near future

3 Results



In general

- Full report: for each MS (on 15 May 2006):
 - Description of the actors involved in OSH
 - The implementation of the Framework Directive
 - The problems and solutions
 - Projects, priorities and changes
- Summary: organisation of the external OSH services in each MS
 - Organisation and structure
 - Missions and tasks
 - Multi-disciplinary competences
 - Relationship with internal services



Harmonization?

- Framework Directive has contributed to harmonization
 - National policies are more in line
 - Harmonization is not complete
- Hierarchy of prevention services
 - Priority on internal service
 - Support by qualified external services
- Organization of external services
 - Private organization
 - Public insurance organizations
 - Branch or regional structures

Internal organization

- Financial aspects of external services
 - Contribution paid by employers
 - Direct or indirect (via insurance contributions)
- Expertise and multidisciplinary approach
 - To be determined by the Member States
 - Not always clearly defined (competent people?)
 - Multidisciplinary approach often reduced to occupational physicians and safety experts
- Quality management
 - Accreditation and certification system not generally implemented
 - No structural evaluation of the products and services provided
 - Need to develop transparent standards to evaluate the quality of the services provided

Challenges for the future


- On content level
 - Need for an integrated approach
 - Shift from occupational medicine to occupational health
 - Link between occupational health and public health
 - Focus on health promotion and (re)integration
 - Strengthening the monitoring systems
- On organizational level
 - The public authorities need to define the general framework and objectives
 - More responsibility for employers and employees
 - Reduction of administrative burden



4

The future of OSH services

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A conference in Brussels (8-12-06)

- Round table with representatives from
 - Employers (Business Europe) and employees (ETUC) organisations
 - Professional organisation ENSHPO
 - European Commission
 - SLIC
- Discussion on 5 statements
 - The development of a single harmonised model on EU-level
 - The need for a harmonization of professional qualifications and of the type and quality of the services
 - The impact of the “services “ directive
 - The role of OSH services in the development of evidence based policies
 - The need of SMEs to address a single and unique external prevention service

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Towards a single harmonized model?

- A single and harmonised European model is impossible to realise
 - Different historical backgrounds
 - Many differences on Member State level
- Need for an harmonisation of the objectives
 - Basic objectives should be harmonized
 - The means to achieve these objectives should be adapted to the local situation
 - The efficiency of the different systems should be evaluated
 - General criteria to assess quality should be developed

Accreditation and certification?

- Harmonisation is not a prerequisite for quality
- Risk of developing a low common denominator
- Preference for
 - Exchange of good practices
 - The development and implementation of accreditation and certification systems at national level
 - Step by step approach



The impact of the services directive?

- Unclear to what extent the services directive is applicable to the external prevention services
- Services directive will create opportunities for OSH services:
 - Development towards other member states
 - Increase multidisciplinary
- Interesting opportunity to spread models of good practice throughout Europe
 - Encourage transnational collaboration between services
 - Stimulate the exchange of experiences



Need for evidence based policies?

- Data collection at centralized level
 - Basis for Risk Observatory
 - For scientific needs
 - For policy development
- However:
 - Data collection is a difficult and time-consuming task
 - Cultural, legal, historical and economical parameters
 - Focus on the identification of success factors
 - Objective data should be combined with subjective perception

A unique OSH service for SME's?

- SMEs are an important target group to address
- SMEs are difficult to reach:
 - OSH services do not have sufficient resources
 - Focus on the supply chain
- Awareness raising actions are needed:
 - Good practices
 - Incentives
- The external prevention services have a strategic role
 - Stimulate risk assessment
 - Provide tools and training

5 A webfeature

GO

Projects and Partners
Background documents
EU Member States
Comparative tables

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What's new

Methodology
Two approaches were taken in gathering the information for describing and analysing the different systems of protection and prevention services operating within the Member States.


Methodology
Two approaches were taken in gathering the information for describing and analysing the different systems of protection and prevention services operating within the Member States.

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External prevention services in EU

A comparative study in the European Member States


The future of external services has to involve more harmonisation of practices and it must certainly involve moving beyond national borders. At a time when enterprises are international and where workers can move about from one country to the next, how else can the future of external services be viewed?




The growing interest among European authorities for the health and safety of workers and their desire to ensure harmonisation within the different Member States of the European Union, led to the adoption in 1989 of a Directive (89/391/EEC)




The Directive is heavily influenced by recommendations 155 and 161 from the ILO, with Article 7 focusing on protection and prevention services. Article 7 stipulates that if the expertise in an enterprise is insufficient for handling protection and prevention matters, the employers must call on ~~expertise~~ the expertise received and adopted in the different countries? What changes have been made as part of complying with the Framework Directive? Have the different Member States of the European Union succeeded in having all of their workers covered by prevention services?





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GO

Projects and Partners
Background documents
EU Member States
Comparative tables

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Source

Organisation and structure
Since the 1995 law on occupational risk prevention and Royal Decree 39/1997, the Spanish protection and prevention services have been able to exist in three different forms: internal service, external service or joint service.

Multidisciplinarity
The external services have to include an expert in each of the following specialist areas: occupational medicine, occupational safety, occupational hygiene, ergonomics and applied social psychology.

Relationship with the internal service
When an enterprise is obliged or has decided to set up an internal service, but does not have all the expertise required

Missions and tasks
The Spanish external services are responsible only for prevention activities. Their tasks and missions as stipulated in Article 31 of the Law on preventing occupational risks are as follows

[Summarising tab](#)

[Comment](#)

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The case of Spain



Summary text
The future of external services has to involve more harmonisation of practices and it must certainly involve moving beyond national borders. At a time when enterprises are international



Click on a country





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The project partners

Introductory text
To obtain updated and reliable information, the researchers drew on the cooperation of different contact people belonging to one of the key health and safety organisations in their country.

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Since the 1995 law on occupational risk prevention and Royal Decree 39/1997, the Spanish protection and prevention services have been able to exist in three different forms: internal service, external service or joint service.


 www.mensura.be
The external services have to include an expert in each of the following specialist areas: occupational medicine, occupational safety, occupational hygiene, ergonomics and applied social psychology.



Austria
The external services have to include an expert

Denmark
The external services have to include an expert


Finland
The external services have to include an expert

Germany
The external services have to include an expert


Click on a country

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Thank you for your attention!

m.degreeef@prevent.be

Programme

- from 8:00 a.m. Registration
- Moderator: Ulrich Becker, Federal Ministry of Labour and Social Affairs (BMAS), Germany
- 9:00 – 9:15 a.m. **Opening of the Conference**
Rudolf Anzinger, State Secretary in the Federal Ministry of Labour and Social Affairs (BMAS), Germany
- 9:15 – 9:30 a.m. **Position of the European Commission**
Jose Ramon Biosca de Sagastuy, European Commission, Luxembourg
- 9:30 – 9:45 a.m. **Introduction**
Hans-Jürgen Bieneck, President of the Federal Institute for Occupational Safety and Health (BAuA), Germany
- 9:45 – 10:15 a.m. **Presentation of the “Study about external protective and preventive services of the Senior Labour Inspectors Committee”**
Anastasios Yiannaki, Ministry of Labour and Social Insurance, Cyprus
- 10:15 – 10:45 a.m. **Germany – national implementation of Article 7**
Antje Brehmer, Federal Ministry of Labour and Social Affairs (BMAS), Germany
Gerhard Strothotte, Federation of Institutions for Statutory Accident Insurance and Prevention (HVBG)“
- 10:45 – 11:15 a.m. **UK – national implementation of Article 7**
Sandra Caldwell, Health and Safety Executive (HSE), Great Britain
- 11:15 – 11:45 a.m. **Finland – national implementation of Article 7**
Leo Suomaa, Ministry of Social Affairs and Health, Finland
- 11:45 – 1:15 p.m. Lunch snack
- 1:15 – 1:45 p.m. **France – national implementation of Article 7**
Philippe Jandrot, National Research and Safety Institute for the Prevention of Occupational Accidents and Diseases (INRS), France
- 1:45 – 2:15 p.m. **Poland – national implementation of Article 7**
Grzegorz Dudka, Central Institute for Labour Protection – National Research Institute (CIOP-PIB), Poland
- 2:15 – 2:45 a.m. **Implementation of Article 7 in other Member States, based on the study “Organisation of external protective and preventive services in 15 Member States of the European Union”**
Marc de Greef, PREVENT, Belgium
- 2:45 – 3:15 p.m. Coffee break
- 3:15 – 3:30 p.m. **Summary of the presentations**
Hans-Jürgen Bieneck, President of the Federal Institute for Occupational Safety and Health (BAuA), Germany
- 3:30 – 5:00 p.m. **Discussion and conclusions**

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