

Labour Inspection Structure and organization

The Austrian Labour Inspectorate comes as a section under the Federal Ministry of Labour, Social Affairs and Consumer Protection as laws enforced by the labour inspectorate fall within the federal competency (Austria is a federal State). The labour inspectorate is represented at central and regional level: It comprises five departments at central level: one on construction and mining industries, on technical safety and health at work, legislation and legal affairs, occupational medicine and health, and on innovation for labour inspectorates and international occupational safety and health. It is headed by a Director General, to whom the departments report.

At central level, the labour inspectorate prepares draft laws and regulations and guidelines for the national labour inspection policy. It compiles information and does public relations work. It provides assistance to its regional offices and identifies strategic key areas of action.

In the field, the labour inspectorate is represented by nineteen field offices, which do the operational work. Moreover, for selected regions there is a separate labour inspectorate only responsible for construction works.

There is a specialized inspectorate for public transports, shipping and telecommunication. Moreover, workplaces in agriculture are monitored by the agriculture and forestry inspectorates of the "Länder" (federated States), as the "Länder" have the only competency to administer and enforce labour law for workplaces in agriculture.

Name of institution that manages work issues

Section for Labour Law and Labour Inspectorate within the Federal Ministry of Labour, Social Affairs and Consumer Protection (www.arbeitsinspektion.gv.at)

Department(s) responsible for Labour Inspection

At central level, the labour inspectorate comprises the above mentioned departments.

Law that covers organization and functional composition

Labour inspection is governed by the 1993 Labour Inspection Act (Arbeitsinspektionsgesetz - ArbIG), which sets out the duties and powers of labour inspectors, together with the organisational and procedural requirements for monitoring compliance.

Specific requirements for employee protection are included in the 1994 Employee Protection Act (ArbSchG - Arbeitnehmerinnenschutzgesetz).

Scope of labour inspection

The labour inspectorate ensures compliance with occupational safety and health laws, laws on working hours and the protection of young and pregnant workers. It covers all possible workplaces, also within public administration. It does not cover self-employed workers and private households, public educational institutions, workplaces within the ambit of church and other religion related institutions (see article 1, Labour Inspection Act); however it covers home work (article 3 of Act). Certain workplaces are covered by specialized labour inspection services (see above).

Moreover, the labour inspectorate is involved in the licensing procedure when new plants are set up; it is entitled to appeal against the granting of a license in respect of which it had raised objections.

It is not responsible for further labour matters being linked to an employment relationship such as wages and salary, vocational training or unlawful dismissal or social insurance.

Local divisions

There are nineteen regional labour inspectorates operating, carrying out the inspections. These are divided into two departments, one of which being responsible for technical safety and health at work and the other for working conditions. As of 1 March 2007, there were 308 labour inspectors in the local divisions. All in all there are about 500 staff members.

Programming and communication

There is mutual information flow and advice between the central service and regional offices on policy and technical issues. An information exchange takes place within the inspectorate's intranet system.

Actions are furthermore directed within the OSH strategy 2007- 2012. Within this strategy, five specific topics were identified in the field of OSH (amongst others: prevention of accidents, vocational and continuous training in occupational safety, awareness raising on safety, improvement of risk assessment), within which

programme objectives and projects are designed under the guidance of five distinct working groups. They are composed of representatives from diverse ministries, the labour inspectorate and other public bodies dealing with OSH (also the forestry inspectorates), insurance institutions (AUVA) and social partners. Moreover, a strategic labour inspection group was established.

In 2004, the internal planning system was changed, bringing decentralized level closer under the central authority. There are annual memoranda of understanding on objectives between the central level at the Ministry and decentralized labour inspection offices which are agreed upon in yearly meetings with all regional directors. These also reflect the strategic objectives set within the OSH strategy and the strategic labour inspection group.

In addition, regional inspection offices can also incorporate local priorities in their work programmes.

Moreover, there is communication and collaboration between the labour inspectorate and the Austrian General Accident Insurance Institution (AUVA), notably as regards the recognition of occupational disease in individual cases.

Current reforms

No information

Human Resources and career development

Permanency of inspectors

Labour inspectors are public officials; their status is regulated by the Civil Servants Employment Act 1979 (Beamten- Dienstrechtsgesetz). Public officials according to Austrian public service law- enjoy stability of employment, unless the performance is not continuously unsatisfactory (article 20 ff, Civil Servants Employment Act). Austria makes use of performance management of its public officials.

Selection process

Posts are advertised. Candidates for labour inspection posts are required to have a university degree in a technical or scientific field or medicine; alternatively they are supposed to have successfully completed a course in technical studies at a vocational training college or to have experience in certain occupations. Labour inspectors without university degree may be eligible for a two years course at the Administration Academy, learning about administrative law and administrative procedures.

Background required and training

As to entry qualifications, see above. All newly recruited inspectors undergo for the first two years internal and external training. This includes training on legal aspects, on principles of occupational safety and health protection, licensing law and procedure, working conditions, licensing law and procedure, labour inspection methods and procedures.

Labour inspectors moreover follow continuous training on relevant legislation and OSH related aspects.

Visits and functions

Types of visits

Labour inspectors conduct proactive inspection visits, based on the risk classification of undertakings (see above). Considerable time is spent with inspections within licensing procedures for new plants, checking for OSH compliance. More than two thirds of inspectors' working time is spent outside the office.

Moreover, labour inspectors follow up on inspection requests channelled through the provincial Chambers for Wage and Salary Earners, which represents workers (see below). Likewise, the insurance institutions (AUVA) are entitled to request the conduct of inspection visits if they deem it necessary, and labour inspectorates have to follow up on a request within two weeks (article 21, Labour Inspection Act). In the latter case, inspectors would be accompanied by representatives of those institutions (ibidem).

Role of preventive measures

The labour inspectorate regularly carries out campaigns. Labour inspectors give advice and collect information on safety and health protection. The labour inspectorate publishes information material, also on its website. Within the OSH strategy 2007- 2012 special educational projects were also agreed; and

awareness raising for employers, workers and safety representative is also targeted: vocational training, education and information on occupational safety were retained as one of the five strategic objectives of this strategy.

The labour inspectorate is involved in the licensing process checking compliance of planned plants with OSH related standards. It is also entitled to appeal a granted license if it considers that legal requirements in the field of occupational safety and health are not met.

Programming

In the field of occupational safety and health, inspection visits are programmed in function of the risk level of the establishment. Places of work are evaluated and classified according to their risk level. Priorities and inspection targets are set on the basis of this classification. See moreover information under “communication and programming”.

Registries and reporting of accidents/diseases at work

The information collected during routine inspection is held both, manually and electronically. It includes information on number of employees, production processes, special equipment and substances in use, involvement of safety engineers and occupational physicians, and irregularities noted during inspections. Electronic information on labour inspection activities is updated daily. Both, central office and regional offices have access to the register.

Employers are obliged to notify occupational diseases, fatal accidents and all accidents causing an absence of more than three days to the Austrian General Insurance Institution (AUVA). A copy of these accident reports is forwarded to the competent regional office of the Labour Inspectorate. Likewise, in case of very serious or fatal accidents at work, the police is obliged to notify them to the competent regional labour inspectorate. The labour inspectorate operates a 24 hour on call standby rotation system, whereby labour inspectors can be reached by telephone.

Sanction and administrative processes

The rights, collaboration with sanctioning bodies etc, are regulated in the Labour Inspection Act 1993, article 9 ff. (Bundesgesetz über die Arbeitsinspektion- Arbeitsinspektionsgesetz 1993- ArbIG).

In the case of imminent danger to the health and safety of workers labour inspectors may impose measures with immediate executory force, such as the prohibition of work and suspension of operation, also in the absence of the management, and, if necessary, seek assistance of the police in the case of obstruction or resistance on the site.

When the danger is not imminent, the labour inspectorate applies to the competent administrative body for the imposition of the necessary measures. In this case, the labour inspectorate becomes party to the administrative procedure.

In case of non compliance labour inspectors normally set a specific time limit and impose the remedy of defects disclosed. If the employer does not comply, the labour inspectorate launches an administrative prosecution procedure, and the competent body has to react within two weeks. In this case, the labour inspectorate is party and is entitled to appeal the decision of the administrative prosecution body. This body has to hear the labour inspectorate if it does not see sufficient legal grounds to continue prosecution or if it wants to impose sanctions which remain behind the expectations of the labour inspectorate.

The decision of the administrative prosecution body may be appealed to the administrative court by the Ministry of Labour.

In case of a serious infringement, the labour inspectors can also launch an administrative prosecution procedure without previous warning. If the competent body decides not to follow the request, the labour inspectorate might appeal this decision.

In case of a fatal accident which is imputable to a law infringement, the labour inspectorate must notify the case to the Public Prosecutor's Office, which will launch a criminal prosecution.

Social dialogue and labour inspection

The social partners are represented by Austria's Economic Chamber and the Association of Industrials. Employees interests are represented by the Chamber of Labour (Chamber for Wage and Salary Earners) and the Austrian Trade Union Federation. All employers and employees are held by law to affiliate themselves with either the Austrian Economic Chamber or the Austrian Chamber of Labour.

The workers' representatives are kept informed of measures imposed to the employer. The labour inspectorate is legally required to send a duplicate of inspection minutes and improvement notices to the

workers' representatives (article 9, Labour Inspection Act). Moreover, representatives of the Chamber of Labour and the Austrian Economic Chamber are allowed to accompany labour inspectors during their inspection visits (article 18 a, Labour Inspection Act).

In establishments with more than 100 workers safety committees have to be set up, in establishment with more than ten employees safety representatives have to be selected. During the visit, labour inspectors have to make contact with them.

Employers and employees organisations are furthermore represented on the Advisory Council for the Protection of Employees.

ILO Conventions ratified in the field of labour inspection

Austria has ratified the ILO Convention on labour inspection (C. 81).