

## EU-Consultation on the European Pillar of Social Rights

Comments by the German Social Accident Insurance (Abridged Version)

The German Social Accident Insurance (DGUV) is the umbrella association for the German social accident insurance institutions for the public and private sectors. It attends to the interests of its members and supports their efforts to benefit insured individuals and companies. The DGUV represents the German social accident insurance institutions when dealing with policy makers at national and European level and when dealing with national and international institutions.

The German social accident insurance institutions for the private and public sectors have the statutory mandate to prevent workplace accidents, school accidents, occupational diseases and work-related health hazards. In the event of an insurance claim, they provide compensation to the injured person, their relatives or surviving dependents. They are responsible for more than 76 million insured persons and approximately 3.8 million companies and institutions.

### I. Introduction

The German Social Accident Insurance welcomes the efforts of the EU Commission to strengthen the social dimension within the European Single Market.

Economic growth and a high level of social security in the EU Member States form the basis for longterm economic and political cohesion in the European Union. Therefore, the DGUV supports the EU Commission's goal to strengthen the social dimension in the EU. However, sovereign rights of the EU countries regarding social security must be ensured.

The European Union has limited competences in the area of social policy because the Member States are primarily responsible for structuring social insurance. It is the opinion of the German Social Accident Insurance that this must continue to be the case, even after the introduction of a European Pillar of Social Rights. This is the only way that the social partners in the Member States can fulfil their duties in this area and avoid a reduction in standards, for example, in occupational safety and health or quality assurance of services.

## On the social situation and EU legal acquis

### 1. What do you see as the most pressing employment and social priorities?

Due to demographic change, the statutory social insurance systems in Europe are faced with the challenge of maintaining physical capacity and providing suitable education and retraining, which allows all workers to lead a healthy working life that adapts as they age, right up until they retire.

Safe and healthy working conditions and more flexible framework conditions which allow work to be adapted to the individual needs of workers are essential for maintaining capacity to work into old age. However, not only maintaining but also restoring capacity to work and employability via effective and efficient rehabilitation services is of key importance. The impending shortage of skilled labour due to demographic change, as well as longer working hours, also mean that companies are faced with new challenges. In order to remain competitive, they will have to concern themselves more intensively with providing working conditions under which their employees can work safely and healthily until they retire by taking advantage of the advisory services and support provided by the accident insurance institutions.

Furthermore, massive changes in the world of work are having a significant effect on occupational safety and health (OSH) and on social security.

Additional risks and hazards have arisen because of new forms of work, such as clickworking, and the increased networking of the world of work. The role of human beings in production processes is changing; as a result, new kinds of processes and structures are emerging. To prevent a decline in practical OSH, relevant procedures and instruments must be adapted.

Due to new forms of work such as clickworking and crowdworking, the question of whether it should be compulsory for other groups of self-employed persons to be protected by statutory accident insurance might become more prevalent.

Another challenge that many Member States currently face is the integration of people with a migration background. In Germany alone, several hundred thousand people have to be integrated into the labour market. This also means familiarising them with their rights and duties concerning OSH.

### 2. How can we account for different employment and social situations across Europe?

The European Union has limited competences in the area of social policy. Within the scope of its competences, the EU has in the past put a number of framework instruments in place which the German Social Accident Insurance considers to be sufficient. Moving forward, the aim should be to future-proof these frameworks, that is, to keep them flexible enough that they can be adapted to continual developments.

To achieve common goals, the EU can support and promote cooperation between Member States in the area of social policy. A good instrument for doing this is the Open Method of Coordination (OMC) which aims to improve voluntary cooperation between the Member States in the areas of „social protection and social inclusion“, „old-age pensions“ and „health and long-term care“. Systematic comparisons and the exchange of best practices in the Member States help them motivate one another to progressively develop more modern social security systems.

In addition, the EU has a coordinating function with regard to social policy. For example, free movement of workers is made possible by the Regulations on the coordination of social security systems (EC) No. 883/2004 and No. 987/2009 which coordinate the different social security systems. In the view of the German Social Accident Insurance, it makes sense to develop this system further and, in particular, to explicitly include rules for the cross-border provision of services for reintegration into the workforce.

The EU has explicit legislative competence for OSH in the working environment. In the past, it has set supranational minimum standards via directives. However, in order to meet the different economic and social framework conditions in their respective countries, the Member States are free to apply stricter protection standards. This leeway must continue to be afforded to the Member States so that they can continue to respond to different economic structures as well as the special requirements of small and medium enterprises (SMEs) and self-employed persons. Thus, the German Social Accident Insurance believes it is very important that the social partners be able to set higher standards, within the framework of the EU's approach to „better regulation“ and „REFIT“, in institutions such as the German statutory accident insurance system. Irrespective of this, existing directives on occupational safety and health must be regularly revised and adapted to current developments. Given the changes to the world of work, this is the only way to adequately deal with old and new risks.

### 3. Is the EU „acquis“ up to date and do you see scope for further EU action?

The view of the German Social Accident Insurance is that there is no need for fundamental changes to EU law or the division of competences in the field of social security. Rather, the competence of the Member States to organise social security systems should be preserved. In individual areas, such as occupational safety and health, uniform minimum requirements can be useful.

However, there must not be intervention in areas which are explicitly reserved for the Member States, even if this occurs indirectly by circumventing the subsidiarity principle. As such, the German Social Accident Insurance is critical of efforts at European Level to standardise health and social services. Even though the European Commission has not yet given a mandate to the European Standardisation Committee (CEN), it has talked about the importance of standardising health services in its work programmes since 2013.

The rights of insured persons in the event of a workplace accident or occupational disease are sufficiently regulated in the national legislation of the Member States. They are structured differently in terms of their approach and scope based on tradition and social perceptions. The German Social Accident Insurance believes that, as a result of the Open Method of Coordination (OMC) and Coordination Regulation (EC) No 883/2004, there are sufficient regulations and instruments at European level to coordinate these systems and their services, as well as to enable comparisons to be made. Since the Member States decide how to structure their social security systems, any additional specifications at European level could only be very general. An example of this kind of general specification could be that all persons must have social insurance against workplace accidents and occupational diseases. Whether this would actually add value is questionable. In fact, if concrete statements were to be made on areas such as minimum requirements, it would have to be considered that these ultimately lead to decline. This is not compatible with upward convergence in terms of improving social security. Therefore, the exchange of experiences between the Member States and the voluntary introduction of best practices is seen as more effective. This is also confirmed by the DGUV's experience when exchanging information with other accident insurance providers in Europe, for example, in the areas of rehabilitation and occupational reintegration.

In recent years, the EU has defined a core set of rules in the area of occupational safety and health, while at the same time granting the institutions in the Member States the right to enact regulations and provisions which go beyond European minimum standards.

The DGUV welcomes a review of the 24 OSH directives based on their relevance, effectiveness and coherence. Firstly, this will maintain a high degree of safety and health in the workplace given emerging risks and, secondly, it will modernise and simplify the European OSH system. A consistent minimum standard of protection is desirable but this must in no way jeopardise higher national standards.

## On the future of work and welfare systems

### 4. What trends would you see as most transformative?

#### Demographic trends

In order to lead a long and healthy working life, the German Social Accident Insurance believes that a culture of prevention is needed which encompasses all areas of life. In an ageing society, chronic illnesses are more likely to occur. Therefore, in order to guarantee the employability of those affected, services and structures for rehabilitation and reintegration into the working life must be expanded. Demographic change also includes the increasing number of women in the workforce as well as the increasing number of people with a migration background. Finally, the shortage in skilled labour, which is associated with demographic change, will have a significant financial impact on the German economy and thus on the members of the German statutory accident insurance system.

#### Technological change

Digital change as a result of advances in technology is increasingly, and more dynamically, changing society and the risks to which people are exposed. Innovative manufacturing techniques and working methods can result in new accident risks or health hazards. For example, the large number of new processes and fields of application for hazardous substances means that risks mainly arise due to complex mixed exposure in the low dose range.

In addition, technological progress can also result in the loss of jobs, for example, when human workers are replaced with robots.

#### New ways of work

Digitalisation and changes in company structures have made the way we work more flexible, for example, in terms of time and location. Workers are increasingly responsible for their own work and the traditional nine-to-five job is being pushed aside. As such, those involved in occupational safety and health must satisfy new requirements in prevention. Finally, it must be kept in mind that the digital world of work does not stop at national borders, but rather is global and open.

Furthermore, work done outside of traditional work environments and working hours can raise questions about insurance cover as part of the statutory accident insurance system (e. g. home office). With many forms of work, the question is already being asked whether the form of work represents an “employed” arrangement (as opposed to self-employed). This is an important distinction in some EU countries, such as Germany, where it is a prerequisite for inclusion in the social security system (e.g. social insurance).

### 5. Are there policies, institutions or firm practices – existing or emerging – which you would recommend as references?

#### Culture of Prevention

As of 2017, the German Social Accident Insurance is running a new prevention campaign. The German social accident insurance institutions want to help companies and institutions take a holistic approach to integrating prevention into all decisions and activities across all levels in order to achieve lasting improvements in working conditions. The sooner safety and health are taught as values, the more natural and routine preventive behaviour will be. Therefore, the 10-year campaign will also address children and adolescents.

#### Vision Zero

Vision Zero is becoming increasingly important for statutory accident insurance in Germany. According to Vision Zero, all appropriate means must be used to design and structure work environments and educational facilities in such a way as to prevent serious and fatal accidents at work, school and while travelling between them and home. Vision Zero also covers the prevention of occupational diseases. As part of a holistic approach, all people involved in the design must be included, that is, employers, employees, safety inspectors, manufacturers of machines and equipment, and the people who plan work and transport systems.

### **Restoring capacity to work**

Accidents are serious life events. Following a serious work or commuting accident, rehabilitation management by statutory accident insurance offers good prospects. After the occurrence of an event covered by insurance, all necessary measures are coordinated and networked as soon as possible in order to overcome or reduce the damage done to the insured person's health. The aim is to achieve timely, lasting professional and social reintegration. In this context, statutory accident insurance in Germany also supports the concept of disability management.

### **Strengthening OSH in SMEs**

In small and medium enterprises (SMEs), there is an increasing need for well-coordinated occupational medical care as well as simple, easy-to-understand practical help to implement OSH requirements. DGUV Provision 2 „Occupational Doctors and OSH Professionals“ is a special regulation from the DGUV which ensures that SMEs can also benefit from occupational medicine and safety management. Company owners can make use of consulting services that meet their individual needs, based on a risk assessment. This comprehensive approach means that companies are made aware of topics such as health promotion, psychological stress or the consequences of demographic change. The aim of communicating with companies in an easy-to-understand manner is to get them on board with OSH.

### **On the European Pillar of Social Rights**

The European Pillar of Social Rights is an important EU undertaking. The German Social Accident Insurance supports and encourages the goal of strengthening the social dimension within the EU, but wishes to emphasise the need to respect national rights in terms of social security. Only by having this balance, will Europe have successful and concordant social security.

Therefore, the European Pillar of Social Rights can, and must, only provide the Member States with general, non-binding principals or guidelines which take into account their freedom to design and organise their own systems. Such principals could serve as an aid for the Member States and incentivise them to progressively develop and modernise their social security systems. However, a differentiating yardstick should be applied because the different areas of social policies vary from one another.

A possible example of this would be a general recommendation from the European Commission to the Member States that they guarantee all workers have access to the social security system. However, the way in which this general goal is achieved must remain reserved to the Member States themselves, particularly given the diversity of the systems.

The upward convergence envisaged by the EU Commission as a result of the Pillar is, in principle, welcomed by the German Social Accident Insurance as long as it pursues the goal of improving social security. However, the instrument for doing this and how binding it will be are still unclear. In so far that the European Pillar of Social Rights is designed to be a supplementary tool which defines European principles as a reference framework for screening the performance of Member States in the areas of employment and social policy, the principle of subsidiarity as set out in Article 5 of the TFEU and the principle of proportionality as “a compass for the renewed convergence within the euro area” must be respected.

There are already European regulations for OSH that guarantee a minimum level of protection for workers. These are essential for OSH and their importance is undisputed. These minimum regulations are decided in a democratic and transparent manner. They can be implemented by the social partners at national level using higher standards. In the opinion of the German Social Accident Insurance, the option to do this must definitely be maintained.

The scope of basic social principles set out in the proposal on the social pillar is sufficient from the point of view of the German Social Accident Insurance. However, it is the opinion of the German Social Accident Insurance that the topic areas outlined in the draft are connected to one another and thus some of the approaches fall short. For example, there are links between OSH and the topics of inclusion, participation, pensions or rehabilitation. These should also be taken into consideration in the context of establishing non-binding principles. Such considerations are already an everyday occurrence at the European Agency for Safety and Health at Work in Bilbao which deals with the issues of occupational reintegration and rehabilitation as part of occupational safety and health.

Based on this, the German Social Accident Insurance proposes that the partitioning of the chapters be reconsidered.

## 6. Do you see the scope and added value of minimum standards or reference benchmarks in certain areas and if so, which ones?

The Member States have very different systems and regulations regarding protection against workplace accidents and occupational diseases. The statutory accident insurance systems in various Member States fulfil inter alia duties which otherwise would be undertaken by pension insurance or health insurance and thus relieve these systems. However, the range of services and benefits offered in the event of a workplace accident or occupational disease varies depending on the statutory mandate of each country. For example, the statutory accident insurance institutions in Germany pay a life-long pension to a person unfit to work and provide treatment and rehabilitation for their entire lifetime. It is therefore important to ensure that the indicators, guidelines or goals set for health and pension insurance systems are not blindly transferred to accident insurance systems. Characteristics and goals specific to accident insurance must not be lost because doing so would result in a decline (downward convergence) in social protection and not an improvement.

There are already European regulations for OSH that guarantee a minimum level of protection for workers. These are essential for OSH and their importance is undisputed. These minimum regulations are decided in a democratic and transparent manner. Furthermore, the providers of statutory accident insurance in the Member States are free to establish higher standards by consensus of the social partners. In the opinion of the German Social Accident Insurance, the option to do this must definitely be maintained.

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