

Protection of slaughterhouse workers



FOCUS

The German law of 2020

In the spring of 2020, large Covid-19 infection clusters were discovered in German slaughterhouses, particularly in North Rhine-Westphalia. Poor working conditions were swiftly blamed for the surge in the number of workers infected.

In order to curb the contaminations and ensure safe, healthy working conditions for the workers, the government decided to reinforce the existing legislation.

Accordingly, a new law on occupational health and safety in this sector came into force on 1 January 2021. From now on, subcontracting agreements are prohibited for the slaughter, cutting up and processing of meat.

Moreover, since 1 April 2021, the use of temporary workers has been restricted and highly regulated.

Introduction

The difficult living and working conditions in the meat industry in Germany have been known for a long time. Already in 2017, the government had enacted a law¹ designed to safeguard the rights of workers in the sector and to ensure protection of their health and safety at work. It was also designed to prevent those in the meat industry from evading the obligation of paying social security contributions by using subcontractors.

In 2019, an audit² performed by the health and safety authorities of North Rhine-Westphalia, during which 30 large firms accounting for 17,000 jobs in the meat industry were inspected, revealed some 8,800 violations. These concerned both working hours and the lack of protective equipment, or again insalubrity and overcrowding in the accommodation provided for the workers.

These workers came mostly from Eastern Europe and were hired via subcontracting firms, so that production was performed almost entirely by workers from outside the firm. Only the administrative and production supervision positions were held by salaried employees.

The audit showed that, in some slaughterhouses, as many as 30 contractor companies could be present on a site.

In the spring of 2020, with the surge in cases of Covid-19 contamination in the slaughterhouses, new inspections took place. The region's authorities found that the situation had hardly improved since the law came into force in 2017.

Moreover, violations were also reported in Baden-Württemberg, Schleswig-Holstein and Lower Saxony.

That is why the government decided to legislate again and amend a number of legislative documents in order to better protect workers in the slaughter, cutting up and meat processing sector.

1 Law to safeguard the rights of workers in the meat industry, dated 17 July 2017 (Federal Official Journal of 24 July 2007)

2 Deinert, Olaf. "What is the justification for the ban on subcontracting and temporary work agreements solely in the meat industry?" Ministry of Labour, Health and Social Affairs of North Rhine-Westphalia, 2020, 21 pages

Measures adopted by the law of 22 December 2020

The **law to improve the implementation of occupational safety measures³** applies to all firms in the meat industry in the areas of slaughtering, cutting up and processing.

It amends about ten legislative documents, including:

- the Occupational Health and Safety Act⁴;
- the 2017 Act designed to ensure the rights of workers in the meat industry;
- the official order on workplaces⁵.

1. Work equipment and PPE

The law reiterates that “the employer must provide and maintain free of charge the work equipment, protective clothing and personal protective equipment (PPE) stipulated for reasons of health or safety at work”.

2. Working hours

The daily working hours include the activities of preparation and follow-up, as well as movement in the plant.

The following are also considered as working hours:

- “assembling and dismantling work equipment, including receiving and returning work equipment (assembly/disassembly time);
- putting on and removing work clothing, including receiving and returning work clothing (the time needed to change) if the wearing of certain work clothing is required by the employer or stipulated by law, and if the employee changes inside the firm;
- washing before or after work (the time devoted to washing) if that is required for hygiene or health reasons”.

Infringements of the law regarding the length of working hours are now punished by a fine of €30,000 instead of €15,000 previously.

3. Subcontracting and temporary work

The restrictions described below regarding the use of outside personnel do not apply to firms with less than 50 employees.

3 *Arbeitsschutzkontrollgesetz*

4 Law of 7 August 1996 on the implementation of occupational health and safety measures designed to improve the safety and health of employees at work (Federal Official Journal of 20 August 1996)

5 Official order of 12 August 2004 on workplaces (Federal Official Journal of 24 August 2004)

Since 1 January 2021, the law requires the industry to put an end to the use of self-employed workers and workers recruited by subcontracting firms.

Furthermore, since 1 April 2021, the use of temporary workers is authorized only under very strict conditions and for a period of three years. This means that temporary workers can be used temporarily to cope with peak orders in the meat processing sector. This derogation does not apply in the slaughtering and cutting-up sector.

The owner of a plant can only use temporary workers for a total annual volume of hours' work not exceeding 8% of the number of working hours performed by the firm's employees during a calendar year, and not exceeding the working hours of 100 workers employed full-time.

Information concerning the use of temporary workers, and in particular the number of hours worked, must be recorded by the user firm separately from the information concerning employees.

Temporary work agencies can supply a worker provided that:

- The maximum duration of the assignment of a temporary worker is limited to four months; previous assignments performed in the user firm are taken into account if they took place less than six months earlier. A collective labour agreement cannot depart from these regulations.
- The user firm must be bound by a collective labour agreement.
- As of the first day, temporary workers are subject to the same working conditions as the full-time personnel, including with regard to wages, and the working hours must also be documented electronically and in a tamper-proof manner.

As a result of these measures, activities relating to the slaughter, cutting up and processing of meat in Germany must in the future be performed by a permanent labour force. This principle of "direct employment" has led to numerous appeals against the legislation. The Federal Constitutional Court has ruled on several urgent requests even before its entry into force. Some of them were rejected⁶, while others are apparently pending.

4. More stringent inspections in the firms

In its introduction to the draft law⁷, the legislator regretted the small number of inspections performed in the firms. "In practice, for many years there has been a trend to a decline in the number of plant inspections performed by the occupational health and safety authorities. This downward trend must be stopped and reversed to again become an upward trend."

Accordingly, the Länder (regions) must gradually increase the number of inspections in the plants and achieve by 2026 a target of at least 5% of plants inspected each year. The Länder must forward information concerning the inspected firms electronically to the DGUV⁸, the

⁶ Ruling of the Federal Constitutional Court (*BVerfG*) of 29 December 2020

⁷ Draft law on improving the application of occupational health and safety measures - law on occupational health and safety inspection

⁸ DGUV - *Deutsche Gesetzliche Unfallversicherung* : <https://dguv.de/>

German social insurer for accidents at work. The data are then processed by the BAUA⁹ (Federal Institute for Occupational Safety and Health), within which a new department will be created in order to evaluate the annual reports of the Länder (in particular their rate of inspection) and to summarize the results for the annual statistical report on the state of health and safety at work¹⁰.

5. Worker accommodation

The employer must provide adequate accommodation for workers. It must also provide in writing, for each worker, a certain amount of information such as the address and reception capacity of the accommodation, the worker's allocation in the communal housing and the period of occupancy.

The documents must be available as soon as the accommodation is made available. They must be retained for four weeks after the end of the worker's occupancy of the accommodation.

⁹ BAUA - *Bundesanstalt für Arbeitsschutz und Arbeitsmedizin*: <https://www.baua.de/>

¹⁰ Annual report on health and safety at work



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