

The logo for WSI (Wirtschafts- und Sozialwissenschaftliches Institut) features the letters 'WSI' in a bold, black, sans-serif font. Above the letters is a horizontal orange bar, and below them is a horizontal red bar.

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der Hans-Böckler-Stiftung

LABOUR INSPECTION UNDER INSPECTION – THE CASE OF GERMANY

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Agenda

- **Labour regulation – why is there a need for reconsidering labour inspection**
- **Inspection and control of workers' rights – the case of Germany: institutions, practice, problems**
- **Future challenges**
- **The future of labour inspection: Labour inspection from a labour perspective – which architecture, which quality indicators?**

ILO definition

1. Labour inspection: Definition by ILO Convention from 1947

The functions of the system of labour inspection shall be: (a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to **hours, wages, safety, health and welfare, the employment of children and young persons**, and other connected matters, in so far as such provisions are enforceable by labour inspectors;

1. (b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
2. (c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

Reconsidering the role of state inspection

State inspection is subject to political decision making and power relations

Neoliberal shift: Critique of direct state control; promotion of voluntary compliance; consultation rather than sanctions; CSR

Austerity measures: Inspection as bureaucratic burden, public sector restructuring, job cuts

However: Monitoring of unfair economic competition as interest of employers and trade unions

Trends in inspection

Inspection and control of the application of workers' rights:

balancing out the structural weakness of the workers, worker representatives and trade unions. Inspection by public authorities as a labour right .

From enforcement and sanctions to voluntary compliance

Control of the application of labour market regulations:

representing the interest of the public authorities in the enforcing of given regulations (wages, safety, employment, social security regulations):

From regulation of labour rights to control of economic

Inspection and control of workers' rights – the case of Germany; institutions, practice, problems

Labour Inspection - Tasks:

Health and Safety,

Working Time

Product safety

Ministry in charge: Federal Labour Ministry

a) Inspecting authorities: organised individually by the 16 federal states

b) Consultation and inspection: Health insurers

Coordination: National OSH Conference (multistakeholder)

Control of economic crime- Tasks:

Minimum wage (MW)

Social security contributions

Wages, employment status and working conditions of posted workers

MW and employment status of temporary agency workers

Employment status of self-employed workers

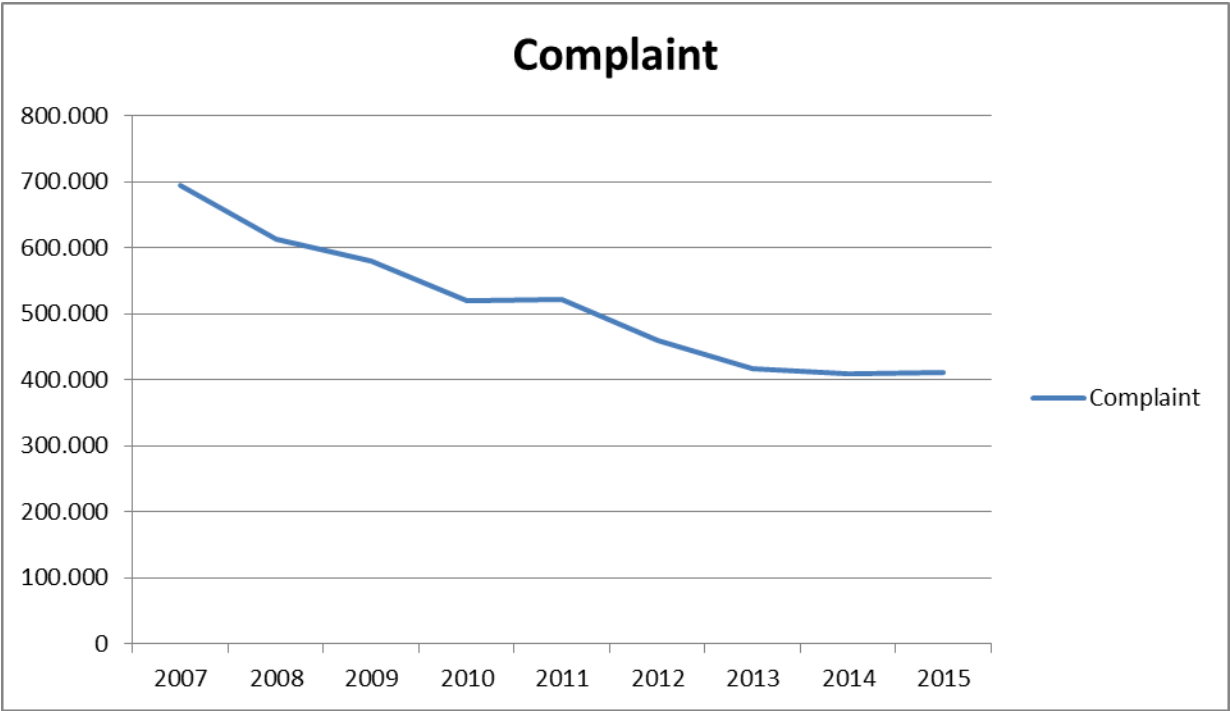
Ministry in charge: Federal Finance Ministry

Inspecting authority: Customs Service

The decline of labour inspection

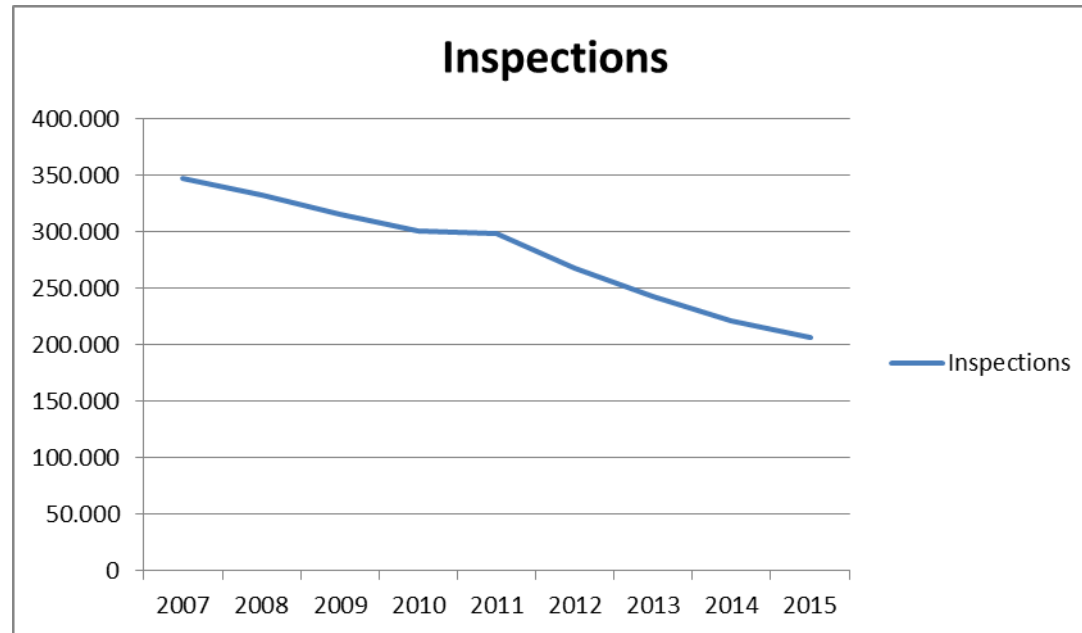
- OSH legislation and policies: Less command, less regulation of small enterprises; more consultation; strengthening of prevention (voluntary)
- Federalism reform: decentralisation of inspection;
- Austerity and public sector reforms: job cuts; new job tasks not directly related to worker rights
- Prevention: strong role of insurers
- Compliance gap between companies and sectors

Decline in complaints by labour inspectorates



Decline in inspections

1. „We can hardly do our jobs anymore“ (head labour inspection department)



The growing role of economic crime control

Economic crime and undeclared work control:
Customs Service expanded and restructured to serve as „innovative“ authority

Take up of the tasks of other authorities (cooperation agreements)

- Federal Employment Agency (undeclared work of unemployed workers)
- German Pension Insurance (social security contributions, employment status self-employed)
- Police/Border Police – Residence permission
- Labour ministries/labour inspection – health and safety

Customs Service

About stable number of posts since 2003

New 1600 positions until 2019, but only 500 in place in 2nd spring 2017

Decline in inspections from 105,000 (2013) to 40,000 (2016) (rise in 2015 to 52,000)

Inspection of 2.3% of all enterprises (2017)

Focus on organised crime

Different concepts and organisational cultures

Labour inspection

- Workers' rights perspective, labour market regulation
 - Participation :
- Trade union representation in National OSH conference
- Worker representation on the boards of the health insurers
- Worker representatives involved in risk assessment and consultation by health insurers and labour inspectors
- Prevention:
- Training/seminar; debate on work organisation and work quality.)

Economic crime control

- Fair competition; labour market regulation
 - Quality measured according to additional tax income and income by fines/sanctions; fair market operations
 - Participation:
- Sectoral pacts on undeclared work by Customs Service, employers and TU.

Future challenges – future structures?

Decline of worker representation at establishment level

Decline of collective agreement coverage

Digitalisation – new forms of employment, mobile work, work in the home office

Internal market – increased risks of fraud

Transnational labour mobility and growing risk of exploitation of poorly informed and structurally weak workers

New chemicals, materials

Labour inspection – where to go?

Which political visions?

neoliberal - voluntary compliance

authoritarian - strong ,security‘state

Alternative:

economic democracy - Which architecture, which quality indicators?

From which perspective?

National labour market regulation?

Migrant /transnational workers ?

Architecture – Debates on the left

More supranational intervention (Cremers 2017, Wagner 2018):“

New governance - network of state authorities, monitoring by TU, workers centers, civil society (J.Fine 2017)

State Regulation; workers voice (compliance) and participation of TU in inspection architecture (Vosko 2018)

Conclusions

- Impact of debt break and austerity – no reform to the better unless inspection gets on the TU and public agenda
- Complaints, impulses and monitoring from below needed (bottom up – workers centers, NGO, TU)
- Economic crime control has to be reformed for meeting quality standards of labour inspection :
 - Participation of TU, works councils, red tape with regard to immigration authorities, training in labour law, anti-discrimination
- Supranational supervision and intervention in cases of transnational cooperation or lack of it

Thank you for your attention!

Please get in contact

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