

Portugal's approach to supporting occupational safety and health compliance: the role of labour inspectorate and prevention services

Summary

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Executive Summary

There is a shortage of information and understanding regarding the roles of Labour Inspectorates and prevention services in promoting occupational safety and health (OSH) compliance at the EU level (EU-OSHA, 2021). Consequently, under the scope of the project 'Improving compliance with OSH regulations', the European Agency for Safety and Health at Work (EU-OSHA) has opted to conduct in-depth case studies in Germany, Ireland, Poland, Portugal and Norway, followed by a collective analysis of their findings. This report presents the results of the study conducted in Portugal.

In Portugal, the starting point for the analysis of OSH compliance, particularly regarding labour inspection and prevention services' practices, concerns the work developed by the Portuguese Authority for Working Conditions (Autoridade para as Condições do Trabalho – ACT), the central national body responsible for this matter. ACT is a public and governmental agency within the Ministry of Labour, Solidarity, and Social Security (Ministério do Trabalho, Solidariedade e Segurança Social – MTSSS), tasked with overseeing labour inspection and OSH promotional activities across mainland national territory.

Concerning prevention services, one of the key features of OSH compliance in Portugal is the heavy reliance on external prevention services. This is because only companies with more than 400 workers and establishments that carry out high-risk activities to which at least 30 workers are exposed are required to have internal services, and that type of companies are rare in the Portuguese economy. According to data from the Office for Strategy and Planning (Gabinete de Estratégia e Planeamento – GEP) of the MTSSS, in 2022, micro-enterprises and small and medium-sized enterprises (SMEs)¹ represented 99.6% of Portugal's enterprises, with 81% being micro-enterprises, employing 68.8% of the labour force (GEP, 2023b). This clearly illustrates why internal services are of exceptional nature in the national context. In addition, Portugal has a low presence of 'health and safety representatives' (reported by 24% of surveyed companies, compared to an average of 56% in the EU-27), 'works councils' (4%, compared to 24% in the EU-27), and 'health and safety committees' (13%, compared to 22% in the EU-27) (EU-OSHA, 2022).

Taking into consideration both the national panorama and EU-OSHA's objectives, the present study focused on characterising OSH initiatives and practices used in different contexts (e.g. different sectors and modalities of prevention services), both traditional and innovative. It also mapped the challenges faced by different OSH actors and based on this provided suggestions regarding regulation, policies, practices and research. The study involved two phases: a desk research phase, and a fieldwork phase. The second phase included a total of 52 participants, ranging from ACT labour inspectors to other relevant OSH actors: 12 individual interviews (i.e. the General Labour Inspector, labour inspectors from different local centres, OSH promotion experts at ACT, the president of the Union of Labour Inspectors, the president of the Portuguese Association of Labour Inspectors); two focus groups with seven and nine labour inspectors, respectively; two focus groups with six safety experts each; and 12 individual interviews with OSH actors, including safety experts, representatives from the Portuguese Society for Occupational Safety and Hygiene, representatives from the Portuguese Association of Security Coordinators and Managers, a family doctor from the National Health System with experience in the reporting of occupational diseases and providing care to workers in cases of under-reported work-related accidents, and the head of the National Association of Workers with Work-Related Disabilities and Injuries (Associação Nacional dos Deficientes Sinistrados no Trabalho – ANDST), an association that ensures support to workers who are victims of occupational accidents and diseases.

In addition, the cross-analysis between the two phases of the study resulted in the development of seven case studies detailing different labour inspection and preventive service practices.

¹ Micro enterprises < 10 workers, small < 50 workers, medium < 250 workers, https://single-market-economy.ec.europa.eu/smes/sme-fundamentals/sme-definition_en

Research findings: Labour Inspectorate

Labour inspection in Portugal follows a generalist inspection model in which, in addition to OSH, the inspectors' action also covers the field of labour relations. The number of labour inspectors in the country has increased from 303 to 448 between 2018 and 2024. The country has a ratio of 10.5 inspectors per 100,000 workers, according to Senior Labour Inspectors' Committee data from 2021 as presented in the OSH Barometer (EU-OSHA, 2024b).

The business structure in Portugal is characterised by SMEs which are traditionally harder to reach to enforce OSH compliance or are overlooked due to limited public resources (i.e. human resources to monitor OSH compliance or develop enough preventive actions). The role of labour inspectors is to ensure legal compliance, and the employer's obligations vary little with company size — except in violations of the legal framework (e.g. when issuing fines), which takes company size and revenue into account. Labour inspectors carefully choose their approach when inspecting micro and small enterprises (i.e. more instructive and less punitive). For example, in the face of non-compliance, the decision to impose a fine or a notice to act is within the inspectors' discretion, as is the deadline given to the employer to take these measures.

These decisions are frequently endorsed within the inspectors collective rather than made in isolation. For instance, labour inspections are consistently carried out by a pair of inspectors (ACT, 2019), a longstanding practice in the country and described as positive by the participants of the fieldwork phase of this study. The practice serves several purposes: it acts as a safety and health measure for labour inspectors, providing a sense of protection in potentially violent situations; it functions as a legal safeguard by ensuring a second witness is present to verify the inspector's findings; it compensates for the generalist inspection approach by allowing one inspector with specialised training in a specific domain to complement the other; and it provides on-the-job training, as inspectors often have different academic backgrounds and levels of experience. Additionally, it helps maintain the complainant's anonymity during reactive inspections, as one inspector can gather evidence related to the complaint while the other collects general information, masking the true reason for the visit.

Labour inspectors often intervene in situations that require cooperation with other institutions and territorial representation. ACT cooperates with other governmental services and public and private institutions that can directly or indirectly influence working conditions. In addition, the decentralised services also cooperate with local institutional partners and local social partners (employer associations and sectoral unions). This practice supports legal compliance, contributes to developing action protocols based on specific situations that can be adapted to other scenarios, and reduces response time through consolidated action protocols and a history of collaborative efforts.

To strengthen the work of Labour Inspectorates, there has been an attempt to modernise and adapt labour inspectors' resources through the development of new tools. Some technologies used to support the inspection activity are the development of digital simulators, a chatbot and a mobile app by ACT.² Implementing these artefacts thus enables technology to be operated as a tool for promoting decent working conditions and permits labour inspectors to focus on situations that may require a deeper and more specialised analysis — thus, facilitating inspections.

In addition to the resources provided by ACT and those derived from the experience of labour inspectors, some challenges still need to be addressed. The labour inspectors who were interviewed for this study widely mentioned the fragmented legal framework in OSH, which is difficult for each inspector to completely master, especially considering that inspection activities follow a generalist model. There was a consensus among the interviewees that additional investment is required in resources related to promoting OSH, particularly through training labour inspectors and increasing the number of ACT experts dedicated to OSH promotion.³ Inspectors also referred to the need for ongoing updates

² More information is available at: <https://portal.act.gov.pt/>

³ These experts raise awareness and provide technical support to employers, workers and the school community regarding occupational safety and health (OSH) matters; they develop support instruments, references and technical guides; and they also ensure the certification of OSH training entities and the regulation of occupational safety services, including their authorisation and auditing.

regarding legal changes to the Labour Code (and on the aforementioned fragmented legislation) and to more practice-oriented training for in-field inspections.

Finally, the importance of integrating the two internal systems currently used by ACT — the National Information System for Inspective Activity (Sistema de Informação Nacional da Atividade Inspetiva – SINAI) and the S360⁴ (a customer relationship management platform for the requests submitted to ACT) — into a single unified system was discussed. Even though this integration has been planned, it has not yet been practically implemented. Also, the design of an integrated information system for data interoperability between ACT and other public bodies (e.g. with Social Security, GEP, Directorate-General for Health, etc.) could lead to the production of more complete information databases, which can be used to improve decision-making towards improved OSH.

Research findings: Prevention services

The organisation of internal and external prevention services is distributed unevenly in Portugal, with a strong prevalence of external prevention services. External prevention services frequently involve the provision of a '*one-off service*' and the selection of the companies providing OSH prevention services is frequently driven by cost considerations, primarily focusing on securing the cheapest option, often without consideration or knowledge regarding the quality, continuity and future impacts (including future costs) of such services (MTSSS, 2024). Regularly limited by the funding and timeframe of the requests (i.e. insufficient for an in-depth longitudinal analysis), each company may concentrate on a particular aspect, such as risk assessments, medical examinations or training, without having an integrated overview of the company's working conditions. In addition, assessing the quality of the actions carried out are further restricted when such services are outsourced. In this context, the separation between safety and health services and the insufficient coordination between these areas within companies are reinforced.

In the case of micro-enterprises, Law No 102/2009 from 10 September allows for the appointment of a designated employer or employee⁵ as an alternative to hiring external services, subject to authorisation from ACT. In a company participating in this model, the employer or a designated worker receives a specific OSH training and thus compensates the obligation of contracting an external prevention service. By 2022, there were a total of 605 establishments⁶ in Portugal using the designated employer/employee model (0.4% of all work establishments in Portugal) (GEP, 2023a). Since the first quarter of 2023, to better support the needs of traditionally hard-to-reach scenarios such as those of micro-enterprises, ACT has made a strong investment in increasing awareness and expertise within micro-enterprises whose activity is not considered high-risk, whether by employers or workers. This enables ACT to demand more from the company as they become more knowledgeable about OSH. This training programme has involved ACT and the Institute of Employment and Professional Training (Instituto do Emprego e Formação Profissional – IEFP, I.P.) and guarantees certified and free training, allowing participants to request ACT's authorisation then to use this model of OSH prevention. Although the numbers remain lower than expected, this effort did result in an increase in the number of authorisation requests submitted to ACT to carry out OSH activities using the designated employers/employee model. The requests increased from 29 in 2019 to 48 in 2024. One of the challenges of this practice concerns the impact evaluation of the actions carried out, and to what extent the actions contributed to an effective improvement in OSH practices, that is, ensuring that this initiative is not only used as a way of reducing investment in hiring external OSH services without effectively improving working conditions.

The under-reporting of work accidents and occupational diseases is another issue, aggravated in scenarios of low OSH investment (e.g. workers have limited access to OSH professionals,⁷ such as occupational doctors, when OSH services are minimal and external, as internal services are not legally mandatory for most companies in Portugal). In Portugal, unlike most EU Member States, private

⁴ Funded by Compete 2020 Programme, of the European Social Fund of the European Union.

⁵ See: https://portal.act.gov.pt/Pages/Empregador_trabalhador_designado.aspx

⁶ Establishments are companies or parts of companies identified in a specific geographic location (i.e. a factory, a shop, a warehouse). See: <https://www.gep.mtsss.gov.pt/documents/10182/28586/sst2023sint.pdf/920a4da5-9cce-4c78-b035-a48bc8543638>

⁷ This includes all professionals involved in OSH, considering the diverse training and professional practice profiles they may possess (e.g. occupational doctors, safety experts).

insurance entities are responsible for handling occupational accidents. As one way of assisting workers with these cases the workers' association ANDST supports its members with the provision of legal, social and psychological support to victims of occupational accidents and diseases, seeking to serve as a guardian entity for workers' rights. After the occurrence of the possible critical situations, the association provides support the workers in dealing with different institutions that intervene in the recognition and reassessment of professional incapacity, and in their professional reintegration. The association ANDST has approx. 60.000 members and holds periodic information sessions with union leaders and worker representatives and is recognised as a pivotal actor in the fight against under-reporting of occupational accidents and diseases.

In the case of internal preventive services,⁸ a few strategies have been highlighted by safety experts⁹ as 'innovative', even though most of them correspond to what is already previewed by the law. It is their practice, in fact, that remains residual: holding daily or weekly meetings with multi-professional OSH teams to discuss specific worker cases; conducting preventive visits and technical in-field assessments (i.e. at the workplace) with the participation of an occupational doctor; and engaging in active listening and dialogue with workers to identify and address their concerns about working conditions; and using a digital platform to integrate safety and health information for workers and companies.

Policy pointers:

Based on the findings in the report and the perspectives of the interviewed labour inspectors and OSH experts at ACT and the other OSH actors interviewed, some cross cutting policy pointers has been put forward:

1. Develop OSH indicators, beyond the number of work accidents and occupational diseases that involve the interoperability of workers' safety and health data (e.g. include the type and frequency of measures applied after a work accident or occupational disease — return-to-work plans with job adaptation or professional retraining — in the Annual Social Report) and ensure their regular updating within a defined timeframe.
2. Consider the model of internal/external OSH services in the light of the current practices, including the engagement at company level, the quality of the actions carried out and the monitoring.
3. Consider the existing framework of private liability for workplace accidents and debate the possibility of moving towards a social responsibility model that offers workers more protection. The current system of private insurance companies seems often to leave workers in a vulnerable position after an incident in need of NGOs like ANDST to claim their compensation rights.

Policy pointers: Labour Inspectorate

Based on the perspective of labour inspectors and OSH promotion experts at ACT, a series of policy pointers have been put forward for possible short- and medium-term implementation, considering different levels of analysis:

4. Compile all existing OSH regulations and specific regimes regarding different activity sectors in the same legal framework. This should be followed by a review of the regulations to address current and cross-cutting OSH concerns (e.g. new work arrangements).
5. Integrate ACT's two internal IT systems used by labour inspectors (i.e. SINAI and S360) into a single unified system.
6. Ensure the interface between ACT's IT information systems and those of other public bodies, such as Social Security, GEP and the Directorate-General for Health, to ensure effective communication and data exchange.

⁸ An internal service is a legal requirement for companies with at least 400 employees workers or by a group of establishments separated by up to 50 km, and in establishments that carry out high-risk activities to which at least 30 workers are exposed (Law No 102/2009).

⁹ Experts in occupational safety who hold a professional aptitude certificate issued by ACT.

7. Investment in the continuous training of labour inspectors, enhancing skills and knowledge to improve OSH compliance and intervention in work scenarios reconfigured by the twin transition (i.e. green and digital transition), but also of other actors they interact with frequently (e.g. court actors).
8. Increase the number of experts dedicated to OSH promotion within ACT to support primary prevention regarding OSH.
9. Integrating labour inspectors' experience-based knowledge into the development of action protocols, so that intervention can be informed by their field experiences (e.g. knowledge regarding new forms of work for the determination of how or when to intervene, as well as how to identify these workers).
10. Keep the practice of conducting inspective visits in pairs, except for certain specific situations (e.g. when there is a prior relationship with the company, or when the visit merely involves an administrative process that is not expected to be complex or unpredictable in its evolution). However, the role of the second inspector should be formally acknowledged.
11. Develop new indicators to assess the impact of labour inspectors' practices, beyond the current ones (e.g. the number of OSH infractions). These could include more detailed measures that currently are not systematically collected, such as the number of follow-up visits to the same location in order to: i) verify the implementation of required measures, or ii) collect evidence over time, especially in cases involving complaints of 'moral harassment'. Additionally, consider the changes that result from these interventions.

Policy pointers: Prevention services

Based on the perspective of the interviewed OSH actors and previously identified policy gaps, a list of policy pointers has been put forward for consideration and possible implementation:

12. Propose the mandatory requirement for OSH service providers to follow a 'standard contract' (imposing minimum contractual terms, or explicitly outlining which services are not covered) to be established by the MTSSS.
13. Ensure the evaluation of the quality of OSH services, and not just the monitoring of conditions that allow companies to adopt a particular modality of OSH services (e.g. evaluation of the designated employer/employee model).
14. Establish a systematic process for renewing the certification and/or monitoring of OSH service providers, as once they are certified, such service providers are not subject to any mandatory time-bound obligation for certification renewal.
15. Regulate OSH training by establishing more stringent criteria from a technical-scientific standpoint, with the requirement of continuous training, considering the evolution of work situations (i.e. new forms of work), occupational risks and their impact on health.
16. Creation of a national public professional regulatory body for safety experts to regulate their professional rights and how the profession is carried out, thus fostering OSH good practices. Specifically, this body could improve OSH practices by developing a code of ethics and professional deontology, while also serving as a regulating entity and acting as a means of protecting the labour and employment conditions of these professionals.

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