

# COVID-19 as a catalyst for re-regulating migrant labour in the German meat industry

Working Paper WP4 – Germany Country Report

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## Executive Summary

This working paper examines the 2020 enactment of the Occupational Safety Control Act (OSCA) as a case-study for state re-regulation of migrant labour in the German meat industry. Using the COVID-19 pandemic as a window of opportunity, the OSCA sought to address longstanding worker exploitation by prohibiting indirect employment in the core business of meat companies. This paper explores the policymaking process, context, and early assessments of the OSCA, highlighting its implications for workers' rights, health, and safety.

Before the OSCA, the industry relied heavily on subcontracting and temporary agency work. Although workers were formally entitled to social and labour rights, these arrangements enabled widespread irregularities. EU mobile workers, mainly from Eastern and Southeastern Europe, constituted the majority of the workforce and faced precarious conditions, including job insecurity, low wages, and limited access to protections. Despite decades of activism and policy efforts, systemic change remained elusive due to industry actors' ability to evade regulation.

The COVID-19 pandemic acted as a critical catalyst for legislative action. Outbreaks in meat plants and their effects on surrounding communities triggered media attention and public outrage. The federal government seized this window of opportunity, introducing the OSCA to strengthen employer liability, notably by banning indirect employment and mandating electronic recording of working hours. The law was lauded as a decisive intervention to curb systemic exploitation.

The policymaking process involved a range of stakeholders, including civil society organizations, unions, industry, and government bodies. Civil society actors had long highlighted industry malpractices through sustained advocacy and media campaigns, while Ministries of Labour and Social Affairs on federal and state levels played a central role in passing the legislation. Early assessments indicate improvements in workers' conditions: they are now directly employed, working hours and pay are more accurately recorded, and injury rates appear to be declining among those transitioning to direct employment. Nevertheless, concerns remain: The law's limited scope leaves room for exploitation in other tasks and sectors, and entrenched hierarchies between workers and management may continue to hinder the realization of workers' rights.

Nonetheless, the OSCA represents a significant step toward addressing exploitation in the German meat industry. It offers a valuable case study of the challenges and possibilities of re-regulating labour in a high-risk, farm-to-fork sector shaped by unequal power relations.

## 1. Introduction

The DignityFIRM project aims to advance our understanding of, and policy responses to, irregular migrant work (IMW) in the Farm to Fork (F2F) sector, considering both its pivotal economic role and the EU's commitment to protecting the dignity of all individuals, regardless of their legal and employment status. Within this framework, this report examines the governance arrangements underpinning national policies addressing IMW in the F2F sector in five EU Member States (Germany, Italy, Poland, Spain, and the Netherlands) and two Associated Countries (Morocco and Ukraine) between 2019 and 2024. This is both challenging and innovative, as the F2F field is institutionally fragmented, and the regulation of migrant labour situated at the intersection of different policy fields. Adopting a governance perspective, the analysis focuses on the policy cycle and the interactions—and non-participation—of public and societal actors, and considers both explicit and implicit policy measures as well as purposive non-action, in order to assess how IMW is addressed, or left unaddressed, across the countries studied.

Within the DignityFIRM project, the term “irregular migrant work” refers to conditions of totally or partially irregular stay and/or employment faced by migrant workers. Specifically, we distinguish three different categories of IMW.

1. Informal employment of irregularly staying migrants, who do not generally have the possibility of taking up registered work.
2. Informal employment of migrants, including instances where only part of the employment is declared (i.e. under-registered work) or where labour conditions are irregular (e.g., wages below legal minimum standards, unregulated and unjustified wage deductions, undue work times, etc).
3. Bogus self-employment, intended as disguised employment relationships and dependent self-employment”

The German case-study provided here presents a slightly different take on irregularity: It describes a situation in which **the government enacted a new law that, for the purpose of improving workers' rights and protections, irregularized precarious employment arrangements in one particular food industry, namely the meat industry.**

Until 2021, the German meat industry heavily relied on EU mobile citizens, most of whom were indirectly employed, namely through subcontracting or temporary work<sup>1</sup>. **Irregularities, according to this research, occurred in various forms but were not considered the “main problem”. However, as this research also shows, indirect employment arrangements facilitated irregularities** (see chapter 2).

The “main problem” was considered to be the workers’ precarity; namely, the system of subcontracting and temporary work, which allowed intermediaries and contractors to evade employer responsibilities. A term often used in this context was “organized irresponsibility”<sup>1,2</sup>. It resulted in a situation that was consistently described as exploitative and by many as modern slavery: Theoretically, the workers were supposed to have equitable social and labour rights as local workers, with some exceptions related to the temporary character of their work (see chapter 3.1). However, de facto, labour rights and standards were frequently violated (e.g., with regard to working hours, salaries, housing), and the workers had no representation and no power to realize social rights such as access to health insurance, paid sick leave, accident insurance, and disability pension<sup>3-5</sup>.

In line with previous research, this study shows that activists, unions, and the media had been drawing attention to this problem for decades; and various governments had endeavored to address it. The literature describes this as an “arms race”, where the authorities’ attempts at re-regulating labour are, time and again, dodged by industry actors, who have economic interests in maintaining the status quo<sup>6-8</sup>.

The COVID-19 pandemic offered a “window of opportunity” for a radical intervention to try and resolve the issue once and for all<sup>1</sup>. SARS-CoV-2 outbreaks in meat plants and related pandemic measures (regional lockdowns, mass quarantines) ignited media storms and public indignation over the conduct of meat companies. A few policymakers on state and federal levels seized this momentum to legislate the federal Occupational Safety Control Act (in German: Arbeitsschutzkontrollgesetz, in the following: OSCA) in the end of 2020, which banned subcontracting in the core business of the meat industry from January 1st 2021 (to be followed by a restriction on temporary work on April 1st 2021). In other words, **the government irregularized indirect employment arrangements in the meat industry’s core business to improve the workers’ conditions**. While evaluations of the new law’s achievements in terms of workers’ rights and protections are forthcoming, **this working paper describes the governance configurations that led up to the 2020 legislative intervention, foregrounding the OSCA as a “good practice”** and potential role model for other country and industry contexts.

## 2. Context & Methodology

The meat industry has been described as a showcase for the precarization of labour as part of wider processes of global economic liberalization<sup>9-11</sup>. Precarization has allowed employers to compete in a globalized meat market and meet the growing

demand for meat, worldwide, by externalizing the costs of social reproduction. This included shifting production from urban to rural areas, from small and medium-level enterprises to large conglomerates, from regular to indirect employment, and from local to foreign-born workers<sup>8,11,12</sup>.

Germany is a significant meat producer. Its meat industry has been showing the above-described dynamics, incl. the shift from direct permanent to indirect employment<sup>6,10</sup>; namely, subcontracting and temporary work. Defined by job insecurity, low income and rewards, and a lack of de facto rights and protection, the employment conditions of indirectly employed workers can be summarized as precarious<sup>13</sup>.

The workers in these precarious employment conditions tended to be EU mobile citizens from East and South-East European countries; mainly Romania and Bulgaria, and smaller numbers of workers from other EU countries such as Poland, Hungary, Lithuania, and from Serbia, Ukraine. They have been providing about half of the manual labour in German meat plants; in some plants, they comprised up to 90% of the workforce<sup>14</sup>. With indirectly employed workers not being included in employment statistics, no comprehensive information on the number and profile of EU mobile workers in the German meat industry was available<sup>4</sup>. The official overall number of workers in the German meat industry is around 350,000 workers (in 2023), including subcontracted and temporary workers<sup>15</sup>.

Indirect employment regimes facilitated irregularities: work-related irregularity, for instance, if (potentially unregistered) workers worked under the name of another (registered) worker; or if workers worked double shifts by using different names. Legal status-related irregularity could arise, for example, when subcontracted workers were (unlawfully) laid off for health reasons or due to a pregnancy. In such cases, they became not only homeless but also irregularized, because EU mobile citizens who cannot prove formal employment in Germany over five consecutive years are ineligible for welfare support and supposed to repatriate in case of need (see chapter 3.1). Especially during the COVID-19-pandemic, but occasionally also in the case of severe work accidents, it turned out that the numbers of registered workers did not match the numbers of workers actually present in meat plants.

The 2020 Occupational Safety Control Act (in the following: OSCA) aimed to put an end to the dire living and working conditions for workers in the meat industry, by forcing larger meat companies (above 49 employees) to directly hire workers from 2021. This was supposed to establish clear worker rights and corresponding employer duties, thus facilitating the realization of worker rights and protections<sup>1</sup>.



This working paper reconstructs the stakeholder and contextual dynamics leading up to the legislation of the OSCA through qualitative analysis of policy documents and semi-structured in-depth interviews with key informants. The policy analysis took place between November 2023 and January 2024. Seventeen policy documents were retrieved online, most of them from a database on German federal laws. They were analysed for relevant contents. The interviews and their analysis took place between October 2024 and May 2025. Fourteen interviews with 15 participants were carried out. Access to the field was unexpectedly easy. Most stakeholders promptly agreed to participate in the study and offered additional stakeholder contact details (snowballing). The only stakeholder categories that were difficult to get hold of were intermediaries (recruiters, subcontractors, temporary work agents) and governmental Occupational Safety and Health (OSH) inspectors. The latter OSH inspectors replied to interview requests that, unfortunately, they did not have time for an interview. Intermediaries provided varying replies: some did not respond at all to emails or telephone calls (4/13); some explicitly stated that they did not want to talk about the matter (4/13); some claimed to not speak German (2/13); and some agreed to an interview but then “ghosted” the researcher (3/13). Ultimately, no interview with an intermediary or OSH inspector could be conducted. We carried out one interview with the head of a worker council, arranged by and in presence of a company managerial staff. The influence on the interview situation and data was obvious. We therefore decided to forego interviewing workers, which could have been similarly arranged by the company management.

The vast majority of interviews (12/14) was done online; they were recorded and transcribed using the AI-powered transcription tool noScribe. The interview transcripts were analysed through both deductive and inductive coding by both authors, using ATLAS.ti 8 software.

### **3. The policy context**

#### **3.1 Rights and right gaps for precariously and irregularly employed workers**

Given EU free mobility, EU citizens are entitled to move to Germany and take up employment. Entitlements under the German statutory social and health insurance scheme are not conditioned by nationality/citizenship status; but they are linked to employment relationship, residency status and, some of them, to the length of stay/payment of contributions. Accordingly, regularly employed EU mobile citizens ought to have access to social rights similar to employees with German citizenship.

However, the social rights of precariously employed workers are limited, due to the temporary/transient character of their work (see below). Irregularly employed workers remain excluded from those social rights that require proof of previous regular employment. In the case of other rights, such as labour laws and health rights, they are entitled akin to German citizens in theory; yet, in reality, they are mostly unable to realize their entitlements.

### Social and labour rights

**All persons who are de facto employed in Germany are subject to the same labour laws and standards;** i.e., non-national and even irregularly employed workers should enjoy equivalent working conditions, incl. wages, work times, rest times (as by the German Social Code (SGB) and the Act on Mandatory Working Conditions for Workers Posted across Borders and for Workers Regularly Employed in Germany (AentG). Also, **any person in a de facto employment relationship in Germany ought to be included in statutory social insurance and health insurance (SSHI)**, incl. health insurance, insurance for work accidents, disability and old age pension, unemployment and family benefits, etc. – in theory<sup>16</sup> (AentG). The employer, regardless of the (ir/regular) character of the employment relationship, is responsible for paying the workers' SSHI contributions. In the case of subcontracting, thus, the subcontractor (not the company/contractor) acts as the employer. (Whereas in the case of temporary agency work, for the time of the employment with a particular company, the company is the employer, with all corresponding duties.)

However, a worker cannot be registered for SSHI without disclosing his/her legal status; and insurers (like all public institutions) are obliged to report irregularized persons to the immigration authorities. As a result, **SSHI rights and benefits only become relevant and accessible for irregularized workers, once they have been exposed.** In such case, the employer will have to repay contributions retroactively. Yet, it is unlikely that workers, once arrested and/or deported, can successfully claim SSHI benefits<sup>17</sup>.

The acquisition of pension rights depends on contributions and insurance periods (for nationals and non-nationals alike). Unemployment benefits, e.g., depend on 12 months of employment in the previous 24 months (SGB III:142), and old age pension requires contributions for at least 5 years (SGB VI:50(1)). **Posted workers and workers in marginal employment (Minijobs) are exempt from the above-described compulsory social insurance, health insurance, pensions, and unemployment insurance in Germany. A special provision covers them against work accidents in Germany (SGB IV:8(1),2). Persons who work or have been working irregularly, i.e.,**

**without a work contract and without paying contributions, remain excluded from pension rights.**

Within the EU, EU law ought to facilitate the portability of benefits and pensions between EU member states. Bilateral social security agreements exist also between Germany and countries outside the EEA (e.g., Albania, Bosnia and Herzegovina, Kosovo, Morocco, Moldova, North Macedonia, Montenegro, Serbia, Turkey, Tunisia, Ukraine)<sup>16</sup>. Mobile workers thus ought to be able to claim benefits after moving to a different country in theory – in practice, this sometimes seems to be problematic.

Importantly, the 2017 Law on Regulation of Entitlements of Non-nationals for Basic Welfare for Jobseekers (GrSiAuslG) introduced **restrictions in German Social Law (SGB II, §§3, 7 and 65) that apply specifically to EU mobile citizens**: To access social and welfare benefits, they must prove that they have been employed in Germany for five consecutive years. **If they have no proof of previous employment in Germany, they are excluded from social and welfare benefits.** If, in such situation, they become reliant on welfare, they are only entitled to a “bridging provision” of 180€ per month, which is supposed to help them return to their home country<sup>18,19</sup>.

Persons in irregular situation in Germany are entitled to a basic package of social and welfare benefits, incl. health insurance (see below), under the Asylum Seeker Benefits Act (AsylbLG). The law foresees a level of benefits below the legal subsistence level. Moreover, claiming these rights entails reporting to the local Welfare Office, which, in turn, are obliged to notify the Immigration authorities. This arguably deters irregularized migrants from realizing their theoretically held rights<sup>20</sup>.

### **Health insurance**

Having health insurance is compulsory for all persons residing in Germany. Statutory health insurance is linked to employment, if that employment lasts at least 12 months (contributions are paid as a progressive tax by employer and employee). In case of employment shorter than 12 months, private health insurance must be purchased<sup>16</sup>.

Previously, EU mobile citizens who were subcontracted in Germany were supposed to have health insurance from their home country through European cross-border health insurance arrangements (EHIC). Interviewees stated, however, that EU mobile workers often did not have health insurance; that their health insurance did not cover relevant health issues, or that it did not cover treatments adequately (i.e., paying rates below German tariffs). On top, *“foremen sometimes used to keep workers’ health insurance cards... and you had to inform the foreman if you were ill and wanted to see a doctor” (Int3, civil society)*. This was said to have changed with the OSCA, as

workers are directly hired and receive German health insurance incl. a health insurance card “by the book”.

Persons in irregular situation who have no other health insurance are in principle entitled to state-sponsored basic health coverage (AsylbLG §§4 and 6), as part of the above-described basic package of social and welfare benefits for persons in irregular situation in Germany. However, realizing these entitlements entails reporting to the authorities, deterring persons with irregular legal status from making claims<sup>20</sup>.

### Enforcement

The Customs Administration and more specifically the Financial Investigation Office for Clandestine Employment are the competent authorities for monitoring the working conditions, protection of migrant workers’ rights, and compliance with the employer’s obligations under the AentG. Occupational safety and health and industrial hygiene regulations are subject to the control and enforcement by the local governments (states and administrative districts), implemented by occupational safety and health (OSH) authorities<sup>16</sup>. Finally, the competent trade association, which also acts as the employers’ liability insurance association (Berufsgenossenschaft, BGN), is authorized to guide and monitor employers’ compliance with professional and labour standards. According to study participants, incl. a BGN inspector, inspectors from both OSH and BGN used to be in too close relations with meat companies in order to effectively enforce standards and rights. However, according to some, internal changes in the BGN led to stricter inspections in the recent years.

Generally, many interviewees noted a lack of enforcement. *“A weakness of the law is the frequency of labour inspections. The law foresees that 5% of the companies are controlled yearly until 2026. I.e., statistically, I must expect to be inspected every 20 years... That’s far too little. If the implementation is not monitored... then you must unfortunately assume that the laws are not implemented”* (Int2 civil society). *“Why should [industry actors]... given the current power relations, not also just disregard this law? Especially in light of the fact that the frequency of inspections is not particularly high.”* (Int4, academia). Interviewees attributed weak enforcement to limited capacities but also a lack of truly independent enforcement agencies. Some went as far as saying that, to improve the conditions of workers in the meat sector, proper enforcement of the existing laws and standards were needed rather than new laws.

### 3.2 An overview of national policies addressing IM workers before the OSCA

Since the 2004 EU enlargement and until 2014, the German meat industry used EU mobile workers via **posting**; i.e., workers were employed by intermediaries in East and South-East EU member states and put to work in German meat plants, sometimes at conditions and pay below German minimum standards<sup>21</sup>. In case of need, workers often found themselves without any social security, as employers and contractors took advantage of fragmented and complex sub-subcontracting chains to dodge responsibilities. E.g., workers who returned to their home country following an accident and consequent incapacity to work were often unable to claim outstanding wages and compensation<sup>21,22</sup>. Years of civil society mobilization for workers' rights, negative media coverage and related political pressures – including a formal complaint of unfair competition to the European Court of Justice by the Belgian government in 2013<sup>23</sup> – resulted in the following policy changes: the government's determination of a general **statutory minimum wage in 2015**, and the **2017 expansion of contractors' (i.e., meat company's) liability for accurate payment of wages and social insurance contributions specifically in the meat industry** (GSA Fleisch).

Anticipating that these legal changes will render posting unattractive, the German meat industry required **intermediaries to relocate to Germany** (which resulted, inter alia, in the registration of 12,628 workers in German statutory social and health insurance between 2014 and 2016), **included subcontracted workers in the collective labour agreement**, and set a **branch-specific minimum wage**. These actions were accompanied by an image campaign, as part of which 52 German meat companies pledged to increase the proportion of direct hires among their workforce<sup>3,14</sup>.

Yet, reality saw little change, neither in the proportion nor the conditions of subcontracted workers. Rather, unions collected evidence of pervasive violations of legal requirements, and the authorities' inspections similarly indicated "institutionalised non-compliance on employment conditions"<sup>3</sup>, most commonly in the form of illegal wage deductions, breaches of work time regulations, occupational safety and health shortcomings, and inadequate housing<sup>5,6</sup>. This underscored that **indirect employment continued to facilitate exploitative practices, allowing intermediaries and companies to exploit legal loopholes and circumvent standards by exploiting employment- and migration-related power imbalances** (such as employment arrangements that bind workers to single employers, language barriers, and lack of familiarity and local social support)<sup>4,23,24</sup>. In this context, **the COVID-19 pandemic offered a "window of opportunity" (Int4, academia) for a resolute**

**legislative intervention.** The remainder of this working paper will focus on the governance and contextual constellations that enabled the 2020 legal change, the OSCA's goals and contents, and preliminary assessments.

## 4 Formulation and implementation of the OSCA

### 4.1 The COVID-19 pandemic as a catalyst

In the first phase of the COVID-19 pandemic, amidst uncertainties surrounding the lethality and transmission pathways of COVID-19, congregate housing settings like accommodation centres for asylum-seekers and migrant worker accommodations were in some cases put under mass quarantine, enforced in a securitized manner (i.e., fenced and guarded): *"...all the accommodations were fenced off... The people were not informed at all."* (Int3, civil society) This, unfortunately, stigmatized the populations in question (e.g., as responsible for high infection rates, or as a threat to the public's health) while obscuring the structural conditions underlying COVID-19-related inequities<sup>6</sup>.

Things changed as further **SARS-CoV-2 outbreaks in meat plants impacted the surrounding communities.** A large outbreak in an abattoir in North Rhine-Westphalia, for example, compromised the food supply and local healthcare system and eventually led to a local lockdown for over 600,000 local residents. Public indignation rose as the respective meat company demanded state compensation for economic losses, while social media and news items suggested its haphazard handling of preventive measures (showing, for example, crowded canteen areas and a lack of protective gear). This **shifted the public debate to the workers' conditions**<sup>6</sup> and created accountability pressures: *"Something had to be done because it was in the public spotlight, and the public pushed [for action]... It didn't leave the headlines, it was constantly reported... in the media."* (Int7, union)

**The federal government seized this momentum,** or, in the words of a meat company representative, it *"took political advantage of this perfect storm to realize a long-held dream"* (Int8, industry). **In May 2020, it declared its determination to resolve the problem of working conditions in the meat sector.** By summer, it submitted draft legislation to the German parliament, expressing the need to establish *"clear lines of responsibility"* in order to effectively realize workers' rights<sup>25(p3)</sup>. **In December 2020,** the German Minister of Labour declared in front of the Parliament: *"We are thoroughly cleaning up the meat industry because the human dignity of employees is at stake."*<sup>26(p3)</sup>; and a week later, the parliament passed the federal Occupational



**Health and Safety Control Act (OSCA)**<sup>25</sup>. Interviewees unanimously agreed that the Minister “*would never have gotten a majority [in Parliament] for the ban on subcontracting, if it wasn’t for the [COVID-19] pandemic.*” (Int4, academia)

#### 4.2 National policies and policy changes

Government representatives emphasized **worker rights as the main motive for the reforms**, declaring that “*the excess Covid-19 cases among the workforce of abattoirs... are evidence that systemic change in this industry is overdue, because... [t]he meat industry has once more ignored its self-commitments*”<sup>2</sup>. Such statements also reflect the government’s decision for top-down regulation, rather than consensual measures and collaboration with industry.

**The 2020 OSCA is a federal law that bans the subcontracting of workers in the meat industry’s core areas** of slaughtering, deboning, cutting and meat-processing from Jan 1<sup>st</sup> 2021 (and temporary agency work from April 1<sup>st</sup> 2021). It also stipulates the **electronic recording of working hours** and **increases the frequency of inspections and penalties for employer non-compliance**. It sets standards for workplaces and housing for all economic sectors, beyond the meat industry, and clarifies the employer’s respective responsibilities. As of 2021, therefore, meat companies in Germany must employ their workers in the said core areas directly and accept all related responsibilities, including social and health insurance coverage, OSH and pandemic measures, and adequate accommodation for non-local workers.

The states of North Rhine-Westphalia and Lower Saxony formulated an **additional 10-point-plan, which lays out concrete steps for “systemic change” in the meat industry**<sup>2</sup>. Alongside the aspect of fair competition, government representatives emphasized worker rights as the main motive of the reforms, declaring inter alia that “*some meat companies had, for too long, operated in a system of organized irresponsibility*”<sup>26</sup>.

In addition, in June 2021, the government of North Rhine-Westphalia passed the **Housing Strengthening Act (Wohnraumstärkungsgesetz)** at the state level. The law sets housing standards, specifies employers’ responsibilities, and expands municipalities’ capacities to intervene in case of problematic accommodations, also in case of cross-border arrangements. (This policy primarily targets employers who put workers to work in meat plants on the Dutch side of the border, but arrange (cheaper) housing for them on the German side<sup>1,27</sup>.)

### 4.3 Main actors, governance constellations & contextual conditions

The main actors that played a role – or a notable “non-role” – in the legislation of the OSCA include state and federal level government, unions, civil society, employers, and workers.

#### Civil Society and Unions

The social and political dynamics that led up to the 2020 OSCA built on **decade-long efforts by unions and civil society organizations, including social counselling centres and church officials, to generate visibility** and raise awareness for the exploitative conditions of meat workers. In the past, these efforts had intermittently led to fleeting media attention, and to exchange with a few engaged policymakers. Yet, ultimately, activists and advocates described, they had often felt powerless vis-à-vis meat companies, which were embedded in local and regional economic, political, and social structures in ways that made them “immune” against critique and attempts at reform. Some interviewees described the manifold economic, political and social “*entanglements*” (Int1, administration) of some meat companies as “*mafia-like*” (Int2, civil society), recounting concrete instances of conflicts of interest and intimidation.

Union representatives noted that they had “*no access*” (Int7, union) to the respective workers. This is related inter alia to the workers’ employment arrangements and lack of organization, but potentially also to the unions’ past dealing with mobile and migrant labour: According to Wagner & Refslund, German unions had rejected the inclusion and solidarity with mobile workers so as to “protect” autochthonous workers, thus facilitating the deterioration of workers’ conditions in the German meat industry in first place<sup>8</sup>. Moving away from this “insider model”, today, they mobilize for migrant workers’ rights through a multi-pronged approach, including the operation of dedicated departments, linguistically diverse teams, and campaigns.

**The COVID-19 pandemic brought the various stakeholders together, e.g., in the form of dedicated round tables, and facilitated the concentrated leveraging of “multiple forms of power and agency”<sup>28(p118)</sup> toward change. To increase visibility and mobilise the public, the COVID-19 pandemic “provided an opportunity ... to draw attention to the conditions under which these people normally work and live, for example the housing conditions, but also long working hours and their total exhaustion.”** (Int2, civil society) The main frame mobilised by unions and civil society was the “deserving workers-frame”, which states that migrant workers do the same work as local employees – and essential work for society on top of that – and



therefore deserve equitable rights. Humanitarian frames additionally highlight exploitative practices as immoral and as human rights violations.

### State and Federal Governments

Both on the state and the federal level, a few policymakers had since long been working on the issue of living and working conditions of mobile workers, and meat workers in particular. They proactively sought exchange with practice stakeholders to gain input; e.g., testimonies from activists, and data on worker health from insurers. Most of the respective policymakers are from the Labour Party (SPD); yet they include also members of the conservative party (CDU). Several interviewees stated that, in their view, decent work and worker rights were a consensus across the German political landscape and *“not an issue for electoral campaigns”* (Int14, policymaker) or party politics. At the time of the COVID-19 pandemic, the federal government was formed by a coalition of Labour, Green Party and Liberals, with the federal Ministry of Labour and Social Affairs led by Labour.

When SARS-CoV-2 outbreaks occurred in meat plants, governments and administrations drew on their experiences with the meat industry: an “arms race” between the authorities and meat companies, where the former repeatedly try to contain the meat industry’s practices, and some of the latter creatively circumvent, dodge, and non-comply with regulations<sup>1</sup>. Just before the onset of the pandemic, the Ministry of Health and Social Affairs of one German state had carried out a major labour inspection operation in the meat industry, which revealed widespread breaches of standards and norms<sup>5</sup>. Nonetheless, in the very first phase of the pandemic, policymakers sought to address the need for protective measures in partnership with meat companies. However, the meetings resulted in a falling out with company owners: *“Let’s say it like this: the meeting [between Ministers and meat company representatives] did not go well. In the sense that [the Minister] said clearly that he wants things to change now. In particular the issue of subcontracting... and - they just refused.”* (Int10, employer liability insurance) A policymaker, who was involved in the legislation of the ASKG, recounted the situation, obviously agitated: *“If someone complained about a particular sausage, [the meat company] could say which pig it came from and which farm those pigs were from. - But they couldn’t digitally record working hours?! So, it was clear that the problem lies elsewhere.”* (Int14, policymaker) Ultimately, the struggle around pandemic measures may thus have detonated the longterm struggles between government and meat company owners and, as a result, policymakers resorted to top-down legal measures. They not

only wanted to resolve the problem of labour exploitation in the meat industry once and for all, but also “send a signal” and set power relations straight.

Within the parliament, the parties on the left (Labour, Greens, Left) supported the OSCA; yet, centre and right-wing parties (CDU, FDP, AfD) resisted. This was expected, given the close relations between these parties and industry. Against the backdrop of public pressures, however, they agreed to the law – under the condition that it would be limited to the meat industry only. According to interviewees, the law was passed in *“a cloak and dagger-operation, at the end of December”* (Int2, civil society), just before Christmas and reportedly before an important football match, which ensured that *“the parliamentarians wanted to get it over with, zack-zack-zack, to finish in time for the football match.”* (Int5, healthcare provider) Policymakers, who advocated for the law, mainly argued with a “responsibility frame”, emphasising the employers’ liability for the safety and wellbeing of their workers. Consequently, the OSCA establishes “clear lines of responsibility” to facilitate the realization of worker rights.

### Employers and workers

After the above-described clashes, employers and employer organizations were left out of the process of policy formulation. They were taken by surprise by the swift legislation process, which gave meat companies three weeks to directly hire most of their previously subcontracted workers – in some cases thousands of workers – between December 2020 and January 2021: *„The law was enacted in mid-December 2020, amidst the COVID pandemic, when everything was hard anyway... [And then] we had to hire all workers within three weeks... At this site, that’s about 6,500 people.“* (Int8, industry) The process of direct hiring these workers implied the expansion of various institutions and services within companies, such as the provision of company housing, CSR and integration services, OSH services, worker council. For intermediaries, in turn, it meant a sudden loss of their livelihoods. A handful of intermediaries sued against the OSCA in the constitutional court, claiming that the law discriminated against the meat industry and violated the freedom of occupation. To date, however, the court has rejected these claims and upheld the law<sup>29</sup>.

The workers were not part of the decision-making processes; which is not surprising, given that they were not organized and had no voice. This has not changed yet, as the hoped-for effect of unionization and stronger organisation in worker councils has not yet come to fruition.

#### 4.4 Policy implementation and assessment

The legislation of the OSCA has been widely hailed as a landslide moment, claiming that **the ban on subcontracting has fundamentally changed industrial relations in the German meat industry**<sup>30</sup>. Many workers have been directly hired. There is evidence for more accurate working hours and pay: *“Before the [law] we had significantly longer working hours, 12-14 hours... Probably longer... People spoke about these very long work days, about double shifts... where you had to stay so long that you lost any sense of time. And that’s not happening anymore.”* (Int3, civil society) Injury rates among workers who transitioned into direct employment seem to decline<sup>31</sup> (see chapter 6 below). Some interviewees claimed that workers have become less exploitable; that they show more agency and stand up for their rights. They point, e.g., to joint action with the trade unions for pay raises, which asserted a nationally and industry-wide binding minimum wage through collective bargaining and strikes at the end of 2020 <sup>see also 32,33</sup>. Interviewees also describe that workers are now handed out their health insurance cards and mail, which were previously often withheld by supervisors.

Yet, some interviewees offer more cautious assessments of how effective the new law will be. They voice suspicion that *“this will be yet another policy on paper, which will make no difference in reality and in the conditions of the workers... The industry has dodged so many previous laws – why should it not dodge this one?”* (Int4, academia) They highlight that the same transnational networks continue to recruit workers in South-East EU countries, and that meat companies hired previous intermediaries as supervisors and HR managers alongside the workers, perpetuating entrenched hierarchies<sup>22</sup>. Some interviewees voiced frustration that nothing had changed on the ground, recounting instances of rights breaches and intimidations against workers: *„We... organized an info event [about the new law]... and when I checked outside [why nobody was coming], one of the workers came to me and said: „Do you see that guy over there in the parking lot? That’s a foreman, and that’s why many [workers] went back: because they are afraid to be seen.“* (Int13, civil society) Some also reported that, some workers were given shorter term contracts (e.g., probationary contracts or fixed-term contracts) than their previous contracts with the temporary work agency; and that some workers ended up with a lower net salary than before: *“People were happy when they got hired directly, but they were totally unhappy with the salary. Because the salary... was now less than what they had received from the temp agency.”* (Int13, civil society) One reason for lower salaries may be the deduction of social contributions; another one that work and rest times are now “by the book” and workers cannot do double shifts and excessive overtime.

Many criticized the law's narrow sectoral and geographic scope. First, several interviewees emphasized that further industries (e.g., logistics, delivery, agriculture) ought to be regulated to prevent exploitation of migrant and precarious labour through atypical employment arrangements. Second, many job tasks in the meat industry were not considered "core business" and thus workers can be still subcontracted; e.g. for cleaning and packaging. This was seen as introducing new layers of inequity among the workers. Third, companies can circumvent the law by off-shoring to other, less regulated countries such as Poland and Spain. To realize the law's potential for workers' rights, thus, interviewees argued for an EU wide expansion.

## 5 Conclusions

The case of the OSCA is an example of federal and state governments using a window of opportunity, namely the COVID-19 pandemic, for a top-down legal intervention aimed at thoroughly re-regulating employment and housing conditions within one specific industry. Importantly, this policy change was long in the making. In line with previous research<sup>4,6,7,23</sup>, our study traces a prolonged "arms race", in which various attempts to improve workers' conditions are met by industry actors' determination and creativity to maintain the status quo. Long-term mobilisation for worker rights by unions and civil society had prepared the ground for change. Eventually, the COVID-19 pandemic provided the government with the momentum to enforce a radical change in employment relations<sup>30</sup>. Its justification of this intervention reflects an approach to food supply chain governance that considers workers' rights, dignity, and wellbeing alongside economic interests and political interdependencies within the EU common market. As comparative research has shown<sup>1</sup>, the consideration of worker rights and wellbeing as a key element of food system governance and transformation for greater sustainability is not to be taken for granted. This study thus highlights the importance of country-specific political values and industrial relations in (re-)shaping the workers' concrete living and working conditions. It will be important to study the effects of the OSCA from an intersectional perspective (i.e., effects on the rights, safety, and health of different categories of workers), remaining challenges, and lessons learned, to weigh its expansion to other contexts.

## 6 The OSCA from a health perspective

One of the main motives of the OSCA was the better protection of workers' safety and health, incl. freedom from exploitation, regardless of their legal status and nationality. This reflects that the state and federal governments accepted responsibility for worker wellbeing as part of food system governance, and as part of their commitment to universal values such as human dignity. It remains to be seen to what extent the law achieves its goals in terms of better worker health outcomes.

This study suggests that those workers, who transitioned from precarious to direct employment, enjoy improved access to social and health benefits. Interviewees stated that some of the previous informal barriers to healthcare have been addressed; e.g., workers are handed out their insurance cards, as opposed to supervisors holding them. Some interviewees also noted that workers are now more likely to take (paid) sick leave; whereas, previously, workers would go to work even when sick for fear of losing income or of employer reprisal: *"By now, each one of them knows that, if I get injured – in worst case, I even get compensation and so on. I am taken care of."* (Int10, employer liability insurance) However, some informal barriers remain and real change will take time. E.g. interviewees reported that some workers still lack knowledge about their rights and, for (potentially unfounded) fear of reprisal and private healthcare costs, forego medical treatment, rehabilitation, and compensation.

There are indications for improvements in worker safety, too, as reflected in decreasing injury rates among transitioned workers. Some interviewees stated that occupational safety *"really improved... The large meat companies have worker councils who monitor that... and they are so happy that they are now allowed to do so!... Occupational safety really got better. The accident rates... significantly decreased, because now other actors are responsible for the onboarding and the implementation of safety measures."* (Int7, union) In the following, we present very preliminary data and thoughts, which would confirm the above assessment, but would have to be confirmed by more rigorous research.

Figures on global injury rates before and after the ASKG show that, overall, injury rates in the meat industry did not substantially change. This is also the conclusion of the official evaluation report <sup>32</sup>. However, looking at the particular group of subcontracted meat workers before the OSCA suggests a different conclusion: Before the OSCA, subcontracted workers had a higher risk of work-related injuries as compared to directly employed workers (reflected in a work accident rate of up to 103,7 as compared to max. 66,2 per 1,000 full-time workers, see Annex 2). Their incorporation into the overall workforce has led to only a very slight increase in the

accident rates among the group of directly hired workers; whereas, in turn, the accident rates among the remaining subcontracted workers have drastically decreased (to 35,2 per 1,000 full-time workers). This suggests that the OSCA did contribute to lower accident rates among those workers, who transitioned into direct employment. I.e., among workers in the core areas of slaughtering, deboning and cutting – which are at the same time the most risk-prone job tasks. Among the remaining subcontracted workers, too, injury rates seem to have fallen, potentially because they are deployed in less hazardous job tasks like cleaning and packaging (for data, see Annex 2).

A representative of the employer liability insurance arrived at the same conclusion, based on different data. His data showed that in the said core areas of meat processing – which are typically the areas with the highest shares of migrant workers – had accident rates of up to 93 per 1,000 full-time employees. After their integration into the overall workforce, the accident rate for this overall workforce remains stable at around 49 per 1,000 full-time employees, indicating a positive adaptation of the new direct hires' accident rates to the average rates in the overall workforce.

## 7 The OSCA from an intersectional perspective

This study provides an overall positive outlook on the OSCA. Yet, as noted above, it also raises a couple of concerns and remaining challenges from an equity and intersectional perspective: Several interviewees described entrenched hierarchies and inequities among the migrant workforce in the meat industry; inter alia, by nationality, ethnicity, skill level, socio-economic status, gender, years of experience, and personal relationship with supervisors. They warned that these entrenched hierarchies would persist despite the new law and continue to shape unequal working conditions (namely, that those at the top of the hierarchy get better conditions, while those at the bottom get less desirable and more dangerous and distasteful tasks). Moreover, they describe manifold instances where these hierarchies facilitate various forms of exploitation among workers; incl. relinquishment of parts of the salary, exchange of payments or other favours for better job tasks, etc.

Finally, the OSCA obliges meat companies to directly hire their workers in the “core business” of meat processing. This means, in turn, that “non-core” job tasks in the meat industry can still be outsourced; e.g. cleaning and packaging. These are the *“physically lighter tasks that are done by women”* (Int12, worker council). I.e., the law may ultimately reinforce existing inequities or introduce new layers of inequity among

the workers, along the lines of gender and/or the above-described intersectional identity markers. Yet, this will have to be confirmed by further research.



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## 8 Annexes

### Annex 1 – List of Interviewees

Code	Organization	Sector
Int 1	Health office	Administration
Int 2	Church	Civil Society
Int 3	Social counseling office	Civil Society
Int 4	University	Civil Society
Int 5	Healthcare Provider	Social and Healthcare system
Int 6	Health office	Administration
Int 7	Union	Civil Society
Int 8	Meat Company	Industry
Int 9	State Administration	Administration
Int 10	Employer Liability Insurance	Social and Healthcare system
Int 11	Union	Civil Society
Int 12	Worker council	Industry
Int 13	Social counseling office	Civil Society
Int 14	Minister	Government

**Annex 2 – Injury rates among workers in the meat industry before and after the OSCA** (per year, per 1,000 full-time workers)(from Sommer et al. 2024<sup>32</sup>, p.22)

	Year	Total	Company size (no. of workers)	
			≤ 49	> 49
<b>Meat industry, overall</b>	2019	54,2	61,1	53,1
	2020	57,2	66,2	55,8
	2021	62,9	59,9	63,2
<b>Subcontracted workers in the meat industry</b>	2019	60,7	88,3	58,8
	2020	59,5	103,7	56,0
	2021	42,2	81,4	35,3

This table shows the figures from the official evaluation report<sup>32</sup>, which reflect the development of injury rates in the meat industry over time (based on data from the employer liability insurer (BGN)). While the report states that the law did not lead to improvements in workers' safety, the numbers reflect certain changes.

The category of subcontracted workers has higher accident rates overall, and primarily in smaller enterprises. (We may assume that the numbers for smaller companies are a closer reflection of the reality than the numbers for larger companies.) Then, after the banning of subcontracting in the “meat core business” in companies >49 workers in 2020, the accident rates among the subcontracted workforce decrease. This may be because the less risky job tasks remain subcontracted (e.g. cleaning, packing); while the accident rates among the directly hired workers only slightly increase. It is important to remember that the share of subcontracted workers was up to 90% in the meat companies; hence, had they “taken their high accident rates with them” when transitioning to direct employment, we would expect to see a more marked increase in the overall accident rates in 2021.

The conclusion could be that injury rates among those workers, who transitioned into direct employment, assimilate to those among the overall, directly hired workforce.

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# **COVID-19 as a catalyst for re-regulating migrant labour in the German meat industry**

## **ABOUT DignityFIRM**

Towards becoming sustainable and resilient societies we must address the structural contradictions between our societies' exclusion of migrant workers and their substantive role in producing our food.

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