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Compliance Management in Research Institutes - Boon or Bane?*

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Abstract: We examine the use and usefulness of systematic compliance management in research institutes using a survey of leaders of German research institutes and expert interviews. While only a quarter of the surveyed leaders report that they have an explicit compliance management system, they report to use a variety of other elements to increase compliance, e.g., an internal control system, systematic monitoring of the legal framework and risk management, training of employees, and whistleblowing systems. A large majority is convinced that compliance management is useful to ensure compliance with laws, internal rules, and ethical standards. According to the experts, compliance management is in the institutes' own interest. Experts argue that compliance management can provide the necessary framework for research autonomy, but also stress that it should not restrict freedom. They say that there is no one-size-fits-all approach to compliance in academia. Institutes should build on existing structures and establish a network on compliance issues.

Keywords: Compliance Management, Misconduct, Research Institute, Survey, Expert Interview

JEL-Codes: I23, C83

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1 Introduction

In universities and research institutes, there are several areas in which rules may be violated. Academic as well as non-academic staff can be involved in breaching rules. For example, employees may accept or offer benefits to gain a personal advantage, may misuse public or third-party funds, or violate regulations on the protection of data, intellectual property, tax or employment law. Another problem is scientific misconduct (Necker, 2014).

Many companies have established compliance measures to prevent the violation of rules. The term compliance is used to describe the adherence to law, internal organizational norms, and ethical guidelines and values. It is about the interaction of rules and behavior (Van Rooij & Sokol, 2021). Compliance management encompasses all measures taken by an organization to increase the likelihood that employees obey the rules. It goes beyond the goal to fulfill legal rules, in that the organization should be managed in a value-oriented manner (Langevoort, 2017). The goals include avoiding liability cases, as well as protecting the reputation and financial situation of the organization and its members (Nelson, 2021).

In recent years, compliance management has become increasingly popular to manage risks of rule violations in academic institutions.¹ It has been argued that compliance management can reduce the various types of risks at research institutes, which is particularly important as research institutions are often funded by large public budgets. To avoid sanctions, loss of reputation, and other consequences of rule violations, it may be in the institutions' self-interest to introduce such measures, in particular as many leaders of research institutions are trained as scientists and not as managers. Modern legal systems are complex and continuously changing. Research institutes may unintentionally violate these rules and laws. Yet, establishing and maintaining compliance management can be related to high costs, may crowd out the intrinsic motivation to comply, may lead to sham compliance and overly complex or dysfunctional approaches to compliance. Moreover, compliance management at research institutes may conflict with the autonomy of science.

The goal of our paper is to investigate whether the introduction of compliance management in research institutes is useful or not. While research integrity and scientific misconduct have been studied in a growing body of literature (see, e.g., Aubert Bonn & Pinxten, 2019; Macfarlane et al., 2014, for overviews), much less is known about how to combat rule violations in research institutions more generally. Moreover, systematic evidence on the effectiveness of compliance management is lacking (Coglianese & Nash,

¹For example, Schröder (2017) describes the increasing importance of compliance management in research institutions in Germany. In the US, the Higher Education Compliance Alliance aims to provide the higher education community with a centralized repository of information and resources for compliance with laws and regulations (see <https://www.higheredcompliance.org/>). Several universities and research institutions around the globe have established compliance measures.

2021).

Our study is based on two approaches. First, we conduct a survey among the leaders of German research institutes on the status quo of compliance management in their institution. Second, we conduct interviews with experts on the general experiences with compliance management in research institutions and best practices. While the survey allows us to learn about the existence of and experience with compliance measures in German research institutes, the expert interviews are meant to learn about best practices. We focus on research institutes in Germany that do not belong to a large scientific organization.² Hence, we focus on smaller research institutions for which scarcity of financial and human resources is more an issue than at universities or larger research institutions organized in a network. However, we think that this is a particularly interesting sample to study as rule violations may be more likely in organizations with a lower degree of structure. We are particularly interested in the question as to how research institutes can integrate compliance management into their organizational structure. We do not examine which rules should be followed in detail, but what good compliance management might look like.

According to our survey, only about a quarter have set up a systematic compliance management system. Reasons for not having introduced such systems are that respondents think that rule violations do not occur at their institutions or that they have not yet dealt with the topic. This may indicate that institutions only think about establishing a compliance management system after rule violations or suspicions thereof have occurred. Yet, institutions have several mechanisms in place that also can ensure compliance, e.g., an internal control system, internal audits, or a risk management system. About 60% of respondents report that their institution systematically conducts analyses of the legal framework and risk management. Almost every respondent reports that their institution informs employees in varying ways about the rules that apply to the organization. Seventy percent report that their institutions have established whistle blowing mechanisms. A large majority is convinced of the benefits of compliance management as a tool to protect rules and avoid liability cases as well as complying with standards of good scientific practice.

In-depth interviews with leading experts in the field of compliance management allow us to examine in more detail how compliance management could be introduced in smaller research institutes. According to the experts, compliance management is in the institutes' own interest. Experts argue that compliance management can provide the necessary framework for research autonomy, but also stress that it should not restrict freedom.

²The research landscape in Germany is structured in university and non-university research, government research institutions as well as the private sector (Federal Ministry of Education and Research, 2021). In non-university research, half of the around 500 research institutes belong to a large scientific organization such as the Fraunhofer-Gesellschaft, Max-Planck-Gesellschaft, Helmholtz Association, and Leibniz Association.

Instead of certified compliance standards or a compliance department, the experts recommend resource-efficient compliance management adapted to the scientific landscape and to the organization-specific conditions. They say that there is no one-size-fits-all approach to compliance in academia. Institutes should build on existing structures and establish a network on compliance issues. They stress the importance to secure external support at an early stage of the introduction of compliance management, in particular for specific compliance topics for which the research institute does not have resources.

The paper is structured as follows. Section 2 reviews the literature on the advantages and disadvantages of compliance management in general and in research organizations more specifically. Sections 3 and 4 present the findings from the survey and from the expert interviews on the use and usefulness of compliance management in research institutes. Section 5 concludes.

2 Pros and cons of compliance management

Compliance management encompasses all activities in an organization that are aimed at ensuring that its governing bodies and employees behave in a manner that complies with laws and regulations (Nelson, 2021; Van Rooij & Sokol, 2021). The goal is to protect the reputation and financial position of the organization and its members (Behringer, 2018; Wieland et al., 2020). It is a systematic approach towards more compliant behavior, in which all stakeholders are involved. There are considerable overlaps between the internal control system (ICS), internal auditing, and the risk and compliance management system. There are no legal regulations that specify the content of a compliance management system; however, international standards have been established that provide guidance on what elements such a system should contain (e.g., ISO standards 19600, 37301).

At the center of conventional models of compliance management is an individual who decides to follow rules according to a cost-benefit calculus (Becker, 1968; Vaughan, 1998; Kette & Barnutz, 2019). Under this view, compliance management aims at preventing rational decisions to violate the law by means of individual training, regulations and monitoring. Two shortcomings of this model are discussed. First, companies continue to be confronted with rule violations and scandals despite having installed compliance management systems (Coglianese & Nash, 2021). This implies that the success of compliance management is not solely a matter of legal expertise or of a mechanical management process. An interdisciplinary approach including behavioral sciences can explain the motivations for rule-deviating behavior, the role of context and culture, and rules of thumb and thus inform the design of compliance management systems (Abdullah et al., 2016; Jüttner, 2021; Haack & Reimann, 2012; Langevoort, 2017; Geller et al., 2010). Second, the effectiveness

of compliance management has rarely been examined. Existing studies report small effects or mixed results (Coglianese & Nash, 2021; Parker & Nielsen, 2009; Jüttner, 2021).

Regarding compliance management in research institutes the literature is scarce. A few studies examine compliance management in German universities, but not in research institutes (e.g., Schröder, 2017; Weber & Lejeune, 2019; Kroszewski, 2015).³ Yet, there is a large and growing literature on scientific misconduct and research integrity. Although the public sector is less subject to standards of efficiency and economic success than the private sector, the economization of the higher education sector has reduced the differences in this regard (Honig et al., 2014). Incentives for performance, e.g., in the form of performance-based resource allocation and salary supplements, tempt scientists to achieve goals by unfair means (e.g., Le Maux et al., 2019; Necker, 2014). The ongoing pressure to publish can result in copyright infringement, data falsification, or other manipulation of study results. Still, there is little understanding of the organizational factors impacting integrity, and the consequences of misconduct for the organization (Sørensen et al., 2021; Aubert Bonn & Pinxten, 2019, 2021b). In light of the growing interest in scientific misconduct and research integrity as well as the complex, constantly changing legal framework, examining compliance management in research institutes can improve our understanding of rule deviating behavior and its prevention in the academic context.

The advantages of compliance management can be derived from the large (public) budgets that individual research institutes have at their disposal, their objectives and influence (Schröder, 2019). One of the main reasons for introducing compliance management is to protect the organization as well as the members of the management from the consequences of rule violations (Nelson, 2021). Beyond the duty of care, it is in the self-interest of the organization’s management to introduce a compliance management system that prevents sanctions or other consequences of rule violations (Schröder, 2019; FOM, 2012). Rule violations can lead to a loss of reputation, damage trust in the organization, and threaten the existence and fulfillment of an organization’s mission. They may affect the ability to obtain third-party funding, find good researchers, or establish research collaborations.

Compliance management can prevent different types of rule violation in research institutes. First, there are many potentially existence-threatening risks of violations by employees in research institutes.⁴ Criminal and legal risks such as corruption, budgetary

³The literature on integrity and misconduct in science examines topics of research integrity that institutes should focus on (Sørensen et al., 2021), reputation manipulation (Zaggl, 2017), data falsification and retractions (Cox et al., 2018; Craig et al., 2020), self-plagiarism (Horbach & Halfman, 2019) and false investigators in grant proposals (Fong & Wilhite, 2021), among others. See Biagioli et al. (2019) for an overview.

⁴However, the topic of risk in science is severely under-researched. Franzoni & Stephan (2022) conceptualize risk and uncertainty in science, but concentrate on outcomes and the value of scientific findings in research proposals instead of organizational risks.

misappropriation of public funds, money laundering or subsidy fraud in third-party research affect all research fields and institutions (Schröder, 2019). Second, deviant behavior within an academic organization can even be due to informal rules if this is functional for the organization, e.g., if it helps to increase the output. Luhmann (1964, p. 305) coined illegal decisions that seem useful and acceptable for the success of an organization as “useful illegality”. Third, modern legal systems are complex and continuously changing (e.g., in procurement or data management, Weber, 2019). Research institutes without the necessary resources to follow these changes may unintentionally violate the rules. Compliance management can bring clarity to the complex working environment of research institutions.

In view of the legal risks and possible costs from legal consequences (e.g. fines, claims for compensation) as well as loss of reputation or trust, the systematic management of compliance can be beneficial in the research landscape. However, when introducing compliance management, it must be taken into account that the measures are associated with costs. Costs are caused, for example, by the establishment of compliance departments or officers, the training of employees, the provision of information, and the development, monitoring and documentation of the compliance measures (Coglianese & Nash, 2021; Thiel, 2015).

In addition, the implementation of compliance management can be challenging. First, it may be difficult to set appropriate standards. If organizations adopt compliance standards with unattainable objectives, compliance measures can backfire. They may crowd out the employees’ intrinsic motivation to behave ethically and follow the rules (Coglianese & Nash, 2021; Filabi & Hurley, 2019). This may be particularly important in academia, as researchers usually have a very high intrinsic motivation. Second, rules that are either too simple or too complex may hinder successful implementation. Oversimplified compliance management assumes that regular training and demanding moral behavior will automatically result in a righteous organizational culture, whereas over-complex compliance with complicated management methods may be ineffective because of their richness in detail (Chmielewski, 2020). If rules are too rigid, sham compliance may be the result, i.e., compliance rules that prevail on paper but are not adequately and consistently implemented because it is too burdensome to follow them (Van Rooij & Rorie, 2022; Schröder, 2019).

It is likely that researchers are skeptical towards the implementation of compliance in their institution. Standardization and intervention are often seen as barriers to autonomy, innovation and knowledge-creation, not only in science but also in the industry (Wright et al., 2012; Van der Meulen, 1998). Moreover, organizations that are confronted with compliance requirements in addition to performance goals (evaluation of the institution or researchers) may perceive them as contradictory objectives (Sørensen et al., 2021; Aubert Bonn & Pinxten, 2021a). Accordingly, it is important to design the structures and processes of a compliance in a manner that fits science and its risk, while respecting free-

dom of science. It has to be ensured that compliance management defines the boundaries of interferences with academic freedom (Weber & Lejeune, 2019; Krapp, 2020).

3 Survey

3.1 Research landscape and sample of the survey

The research landscape in Germany comprises over 1,000 institutions that are public or publicly funded. In our survey, we focus on non-university research institutes that are an important part of the German research landscape. They have a long tradition, conducting basic and applied research outside of universities. They often collaborate with universities through formal cooperation treaties or researchers' affiliation with universities. Half of the around 500 non-university research institutes belong to a large scientific organization such as the Max-Planck-Gesellschaft, Fraunhofer-Gesellschaft, Helmholtz Association, or Leibniz Association (Federal Ministry of Education and Research, 2021). Despite playing an integral role in national innovation systems, there has been limited scholarly attention on public research institutes, especially compared to universities (Intarakumnerd & Goto, 2018; Siegel et al., 2023). Moreover, we are not aware of any systematic evidence on the extent to which research institutes already use compliance management systems.

The conditions for compliance management in research institutes differ between institutes that are anchored in a scientific organization and institutes that are organized independently. In particular, the Max-Planck-Gesellschaft and the Fraunhofer-Gesellschaft systematically organize compliance management at the central level. They have determined responsibilities among the board of the societies and established central offices and risk management units that collect compliance relevant information and monitor risks. They provide training opportunities on compliance relevant topics for employees. They also have established whistle blowing tools and ombudsmen to facilitate the revelation of possible cases. They have defined codes of conduct that aim to support a culture of compliance. The institutions organized within the societies are responsible to implement these decentrally (Max-Planck-Gesellschaft, 2019; Fraunhofer-Gesellschaft, 2020).

In our survey, we focus on research institutes in Germany that do not belong to a large scientific organization. Hence, we focus on smaller research institutions for which scarcity of financial and human resources is more of an issue than at universities or larger research institutions anchored in a scientific organization. We think that this is a particularly interesting sample to study as rule violations may be more likely in organizations with a lower degree of structure and control. In addition, the organization of research institutions within such societies is rather Germany-specific. The aim of the survey is, first, to take

stock of how research institutes organize compliance, second, to gather experiences of the institutes with compliance management systems, third, to collect information on experiences and obstacles for institutes without compliance management systems, and fourth, to enquire more generally the perceived value of compliance and compliance risks.

Since compliance is a management task, we decided to survey the management of the research institutes. For each institute included in a list provided by the German Ministry of Education and Research (Federal Ministry of Education and Research, 2021), we collect e-mail addresses from the institutions' websites on their leaders. We identified for each institution the persons who are in a leadership role. When it was ambiguous who is mainly responsible to lead the research institution, other factors such as their presentation on the website were considered in the selection. In addition to the selection of the contact persons, in some cases it was difficult to identify the corresponding e-mail addresses. In these cases, a central e-mail address for the institute was identified. The institutes that could only be reached via contact forms could not be invited to participate in the survey.

3.2 Description of the sample

The survey was conducted in February 2021 using an online questionnaire. Invitations to the online survey were sent to 425 email addresses. The list of non-university institutes in Germany consists of 483 research institutions, 55 institutes of which we could not invite due to a lack of contact data or a contact form. Three invitations could not be delivered. In total, 69 individuals responded to the questionnaire (response rate of 16%). Of the 69 questionnaires answered, 16 individuals dropped out in the first part of the survey. The following results are based on 51 respondents that continued until the end. Eighty-eight percent of the respondents answered every question, the rest left some of the questions open. We include the latter in the analysis because there are no systematic missings.

The first part of the survey enquired information about the person and the research institute. The vast majority of survey participants report being a member of the institute's management (69%). Hence, the identification of persons with a leadership role as target persons for the survey was largely successful. In addition, a small proportion of compliance officers (10%), scientific employees (8%) and non-scientific employees (4%) took part.

The majority of survey participants report belonging to a research institute in the natural sciences (61%), followed by social and behavioral sciences (14%) and the humanities (10%). With regards to the number of employees, there is a strong heterogeneity between the research institutes. The surveyed institutes employ an average of 473 people. We divide the institutes into three groups based on their number of employees. Thirteen institutes are small with fewer than 100 employees; they employ on average 30 people.

Institutions in the social sciences or humanities are most frequently represented in the group of small institutes. The group of medium-sized institutes with between 100 and 500 employees comprises 19 of the research institutes surveyed. Medium-sized institutes employ on average 216 people. The group of large research institutes with more than 500 employees includes nine institutions. They have on average around 1,656 employees.

3.3 Results

In the first step, respondents were asked which compliance relevant elements are used in their organization. Almost three out of four respondents state that their institute has established an internal control system (see Figure 1). Less than half of the respondents report having an internal audit function (48%), a risk management system (40%) or a legal department or in-house counsel (40%). A compliance management system, on the other hand, was mentioned by just over a quarter (28%). In comparison to this, an online survey among representatives of higher education institutions (colleges and universities) in Germany in 2013 and 2014 showed that 26% of respondents were not dealing with the topic of compliance, but 12% were planning to address it in the future (Kroszewski, 2015).

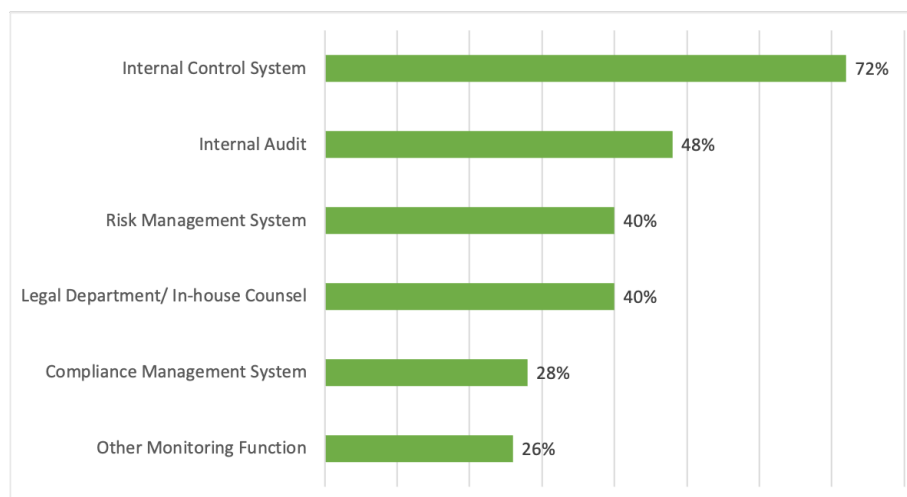


Figure 1: Stocktaking of Compliance Measures

Question: Which of the following monitoring elements are present in your organization? (Multiple answers possible) (N = 50)

About a quarter of the respondents in our survey mentioned other monitoring functions (26%). According to responses in an open text field, these range from a compliance unit, a compliance management system under development or a minimized internal control system, a quality management or risk management system to the involvement of the Federal Audit Office. In addition, the rules of procedure, the scientific council, regular meetings in various

compositions, scientific commissions and ombudspersons are mentioned. Some report a multi-eye principle, IT security and data privacy management, the use of officers according to responsibility (data privacy, equality, awarding of contracts), and training.

We ask those who respond that they have a compliance management system about their experience with implementing the system (open question). Most respondents state that they have had a good experience. Few mention difficulties in the implementation.

The 72% of respondents whose research institutions have not yet introduced a compliance management system were asked about the reasons (see Figure 2). About one third state that breaches of rules are not a problem at their research institute (31%). One of four respondents report that the institutes have not yet thought about the issue. Both statements may indicate that research institutes only think about systematic compliance management after rule violations or suspicions thereof have occurred. One fifth state that business and organizational costs are reasons why they have not yet established a compliance management system. Six percent state that they do not see any benefit in it.

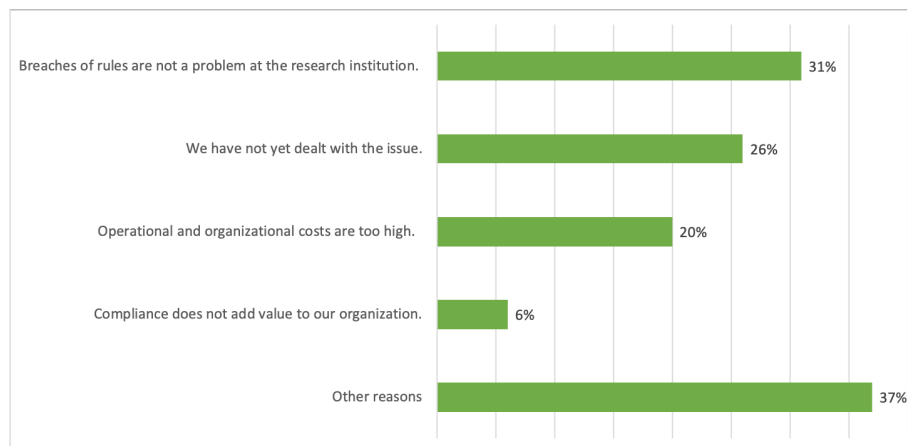


Figure 2: Reasons for not having introduced a Compliance Management System
Question: Why has a compliance management system not yet been implemented at the institute? (Multiple answers possible) (N = 35)

More than one third state that other reasons can explain why they have no compliance management (37%). Three respondents state that the introduction of a compliance management system is currently planned or established. Furthermore, it was reported that internal control systems and existing mechanisms were sufficient and resilient. In addition, the increase in bureaucracy in various areas was pointed out as placing a heavy burden on the institute's management. Four respondents attribute it to the size of the institute that no compliance management system has been established so far. Regarding the introduction of a compliance management system by institute size, we indeed find a correlation between the establishment of a compliance management system and the reported institute size.

Small institutes with fewer than 100 employees are least likely to report having established a compliance management system. However, we only have few observation in each cell.

We asked all respondents who is responsible for compliance issues in their institution (see Figure 3). The majority of respondents state that compliance is a management task at their institute (73%). About a quarter report that compliance officers deal with the issue (27%). Compliance commissions and compliance departments are rarely established, at 6% and 4% respectively. Four percent report no one deals with compliance.

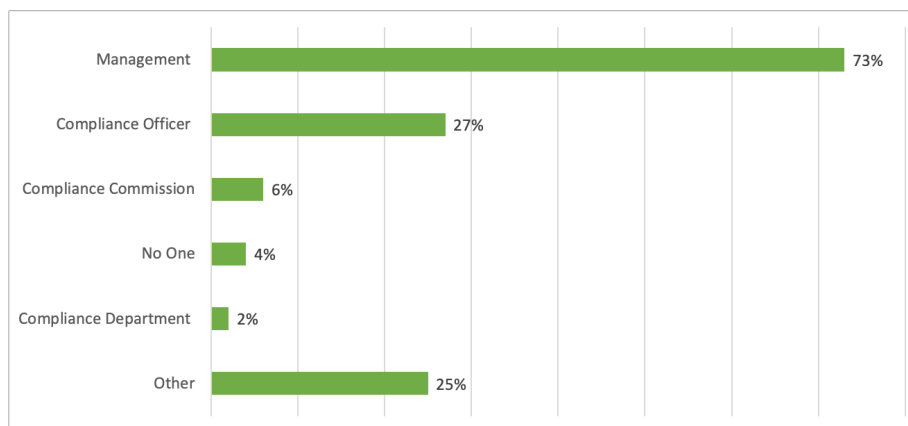


Figure 3: Responsibility for Compliance

Question: Who is responsible for compliance at your institute? (Multiple answers possible) (N = 48)

A quarter of respondents say that other people are responsible. In an open text field, they report, e.g., that ombudpersons, the senate, or the board of directors is responsible. Other respondents see this responsibility with officers of good scientific practice as well as data protection officers, or equal opportunity officers. Furthermore, the internal audit department, additional auditors, or a legal advisor are named as being responsible.

We also ask respondents how systematically they have implemented certain elements of compliance management, namely the documentation of the legal framework and risk management (see Figure 4). Most respondents state that their institution systematically conducts legal analyses (65%) and risk management (56%). Nine percent do not carry out any risk management at all, and about a quarter manages risks unsystematically (26%). With regard to the analysis of the legal framework, around a quarter of the respondents report to conduct legal analysis either unsystematically (23%) or not at all (2%).

Another important feature of compliance is that processes or training sessions inform employees about the rules that apply to the organization. A large majority of respondents indicate that their institutions have implemented such measures (88%). Asked about the communication channels (open text field), respondents describe that there is a code of con-

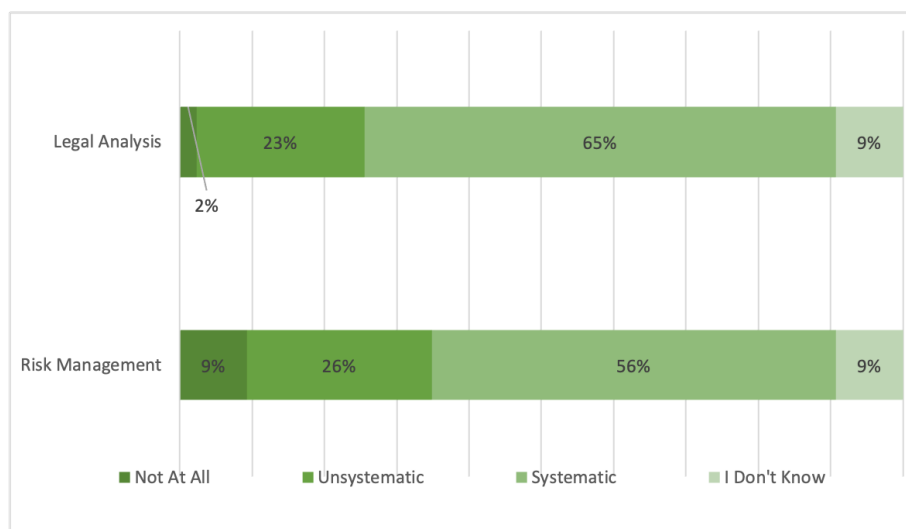


Figure 4: Legal Analysis and Risk Management

Question: To what extent have you captured and documented the legal framework relevant to your institute? (Legal Analysis, $N = 43$)

To what extent do you identify, assess, manage, and control risks that may arise from activities? (Risk Management, $N = 43$)

duct, guidelines, handouts or rules of procedure for communicating rules. Five respondents mention an organizational handbook available to employees on the intranet. Nine respondents also refer to training courses. The respondents mention topic-related information events, e.g., on corruption prevention, the environmental management system or regular instruction on occupational safety and fire protection. Introductory training for new employees is reported. Weekly team or departmental meetings as well as regular meetings of all employees are mentioned as other formats for regular communication.

An important feature to facilitate the detection of rule violations are whistleblower systems. We ask respondents if their institution has established instruments that allow employees to report potential breaches of rules, e.g., electronic whistleblowing systems or an ombudsperson. Seventy percent state that there is a whistleblower system in place. Thirteen respondents report that their institution uses a personalized system with ombudspersons or a person of trust for good scientific practice. Some mention, e.g., an internal staff unit or internal investigations, and an external lawyer of confidence. The staff council, security, equal opportunity, data protection, or compliance officers are also mentioned.

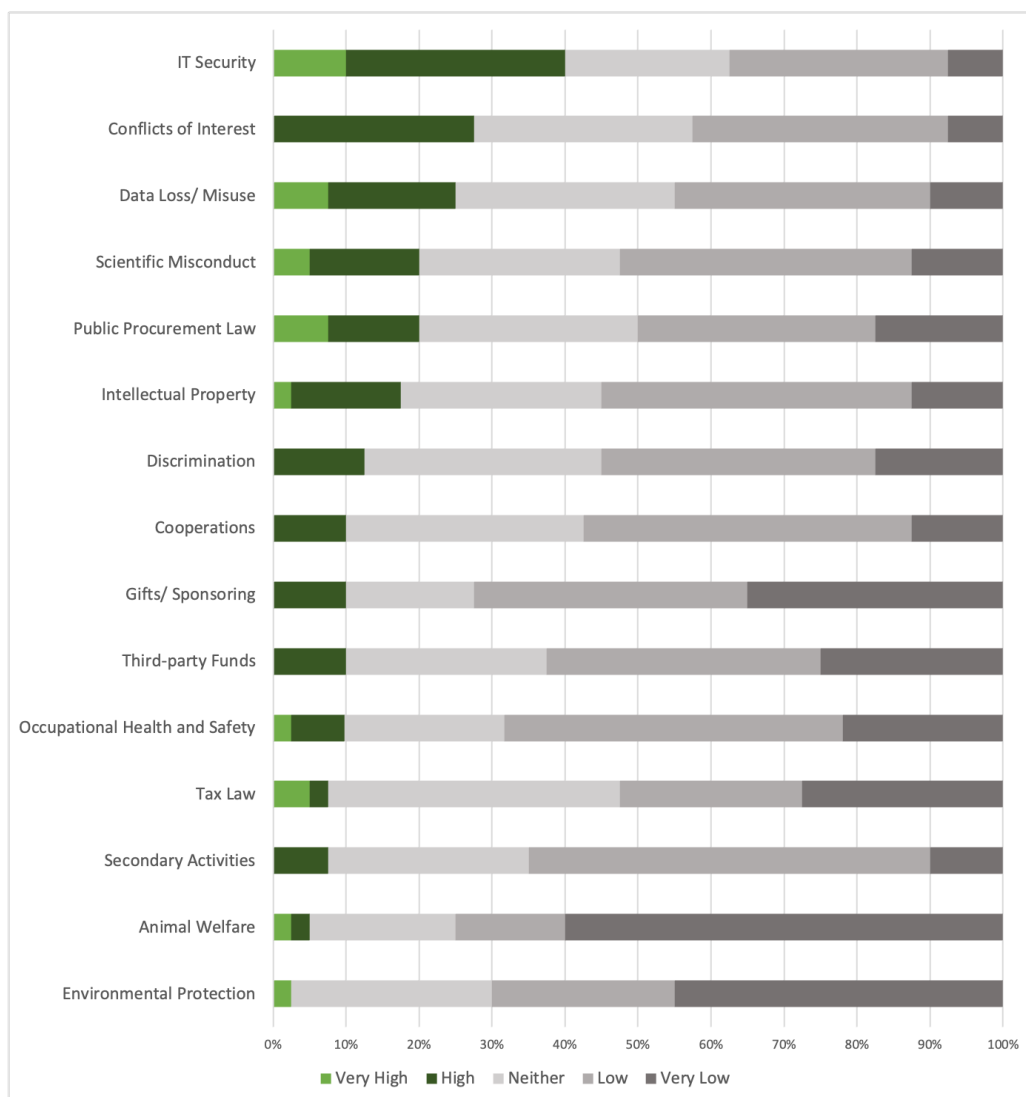


Figure 5: Assessment of Compliance Risks

Question: What is the level of risk of unlawful and unregulated conduct by employees of research institutes in the following areas? (N = 40)

In the last part of the survey, general attitudes toward compliance were enquired. We ask respondents how high the risk is for non-compliance in fifteen risk areas; the answers are recorded on a scale from “very low” to “very high” (see Figure 5). Risk is assessed to be rather high in the area of IT security (40% stated “very high” to “high”), conflicts of interest, loss or misuse of data, scientific misconduct, and procurement law. The categories of IT/ data protection and scientific conduct were also rated as particularly compliance-relevant by the universities surveyed in Kroszewski (2015). Less than one-fifth of our respondents state that intellectual property, discrimination, cooperation, gifts/sponsorship

and third-party funding pose a high risk. It is surprising that only 10% rate risks in the area of third-party funding management as high. The areas perceived as least risky include occupational safety, tax law, ancillary revenues, as well as animal welfare and environmental protection. The low risk rating for animal welfare and environmental protection may be explained by the fact that these are more institution-specific compliance risks.

The respondents see a consistently high added value of compliance (see Figure 6). They most frequently refer to the safeguarding of internal organizational rules (74%), followed by the avoidance of liability cases through compliance with laws (70%). Compliance with scientific standards (61%) and other ethical standards (59%) is also seen as important by more than half of the respondents. Other benefits of compliance described include awareness of existing rules, preservation of institutional autonomy and reputation maintenance.



Figure 6: Added Value of Compliance Measures

Question: What added value do you think compliance measures can have? (Multiple answers possible) (N = 46)

4 Expert interviews

4.1 Procedure

In addition to the survey, we conducted expert interviews with 12 German experts on compliance management. We selected people that either conduct research in the area of compliance or are responsible for compliance management in a research institution. The interviews took place between January and February 2021 by telephone or Zoom and lasted on average for half an hour. A privacy statement was obtained from the participants in

advance and the information was anonymized accordingly.

We used semi-structured interviews with a set of predetermined questions to increase comparability of the replies across individual cases, but at the same time allow for different dimensions of expression and conversation-guided follow-up questions. Questions include, first, relevant elements of compliance management and risks for research institutes, second, added value of compliance in the research landscape, and third, implementation of compliance measures at research institutes. Two research assistants independently structured the available interview material and helped us to select important insights.

4.2 Results of the expert interviews

4.2.1 Understanding of compliance and relevant risk areas

The experts understand compliance as conforming to rules and regulations with the aim of ensuring and adhering to the relevant legal provisions and rules as planned. For the majority of experts, compliance is not a new phenomenon. What they think has been lacking, however, is a systematic view of the topic and its designation as a compliance system. Moreover, it is essential to align compliance with the institution’s mission. Compliance is seen as a cross-cutting issue that needs to be considered on an ongoing basis.

“We don’t do compliance for compliance’s sake, to present ourselves as the best in class in the area of compliance, but to maintain as much freedom as possible for science. Because we don’t shine through great compliance, but through outstanding basic research.”

The interviews reveal that compliance has partially arrived in the scientific landscape. The majority of experts report a diverse picture. The topic is not fundamentally unknown and interest is generally increasing, although not yet on a broad scale. Experts believe that it is not yet possible to speak of a uniform concept of compliance that has been established. There seem to be many variations which can be found in the scientific landscape.

Some experts see the existing compliance structures and regulations as sufficient, but with potential for a more systematic approach without additional bureaucracy. Experts state that the most important risks are already covered, but that every institution could identify gaps if they systematically examined them. Others emphasize the lack of knowledge on general issues such as fire protection or conflicts of interest in contract research, as well as the lack of awareness of misconduct. Experts stress that people working in research institutes lack experience in this area:

“Most have just started to introduce compliance, no one has 20 or 30 years of experience.”

Another reason that compliance has not yet fully arrived in the research landscape is that the public focus is currently on corporate compliance and integrity, as these are frequently mentioned in the media (e.g., Volkswagen, Wells Fargo or Siemens scandal). In research institutes, this could lead to the perception that compliance is more a matter for business. Many institutes do not yet systematically deal with the topic due to scarce resources.

According to the experts, there is no one-size-fits-all approach to compliance in science. Appropriate compliance structures depend on the specific institute and its research focus. For example, an institute that conducts basic research requires a completely different compliance structure than an application-oriented institute. Likewise, a social science institute operates under different circumstances than a natural science institute. While experts agree that all institutions should ensure that they adhere to rules, the scope of risks and the extent of potential rule violations differ depending on the research focus.

“A cancer research center that conducts Big Data research may, of course, have completely different risks from a data protection perspective than another institute that perhaps manufactures heart valves and sells them in a research-related manner. There, data protection may be less relevant, but the risk of corruption is higher.”

Overall, the experts name a large number of risk areas relevant for research institutions. Decisive topics are good scientific practice, public procurement law, and managing third-party funding. Particularly regarding institutes that are not part of a research society, experts worry about problems with public procurement law. Since grant recipients are increasingly being audited, there are high financial risks for research institutes in the management of funds. Experts also stress that the (value added) tax law may be a challenge.

4.2.2 Research autonomy and value of compliance management

Experts state that usually the non-academic staff is responsible to introduce compliance management. Although there is no expectation that researchers should be responsible, a problem may be that researchers are in favor of a lean administration. This may contradict the availability of the required resources for the introduction of compliance management.

Experts broadly take one of two positions on the question of how research and compliance relate to each other: (1) compliance enables research, (2) compliance should not restrict research. Autonomy is described as the “central good of compliance.” Experts argue that autonomy requires a framework and that compliance can help to give a structure:

“The less the notion of compliance is taken seriously, the more the freedom of science is at risk.”

Nevertheless, experts state that compliance will be less accepted when it restricts research work, as researchers do not take a consistently positive view of the topic. In this sense, compliance should not interfere with the freedom of research, for example, by making research funding dependent on rigid and burdensome compliance standards. Compliance should not be over-stretched and should not be seen as a “corset”:

“If it is perceived as interfering, then everyone will try to outsmart this set of rules.”

Overall, experts find it challenging to find a balance between the interference with scientific freedom and researchers’ understanding of the benefits of compliance. They recommend to think of compliance as benefiting the entire organization and not to think of it as a battle between administration and academia. Thus, it is essential to demonstrate the benefits.

Experts assume that most institutes only deal with compliance as a result of legal requirements or after a scandal. They state that the pressure to comply can arise in the process of acquiring funding, donations or sponsoring, or if public scandals have a damaging effect on the reputation of the institute. A scientific institution would be most likely to address compliance issues if there was a threat to its scientific activities.

“If you leave compliance issues for too long, they overtake you at the most inconvenient moments.”

The interviewed experts stress that it is in the own interest of each institute to manage compliance to ensure its existence, avoid sanctions, and loss of reputation. The benefit of compliance is its risk management, rendering other incentives for compliance unnecessary. Since many compliance violations are the result of ignorance and negligence, another important benefit of compliance is to release the management or the board from liability.

“Yes, every organization should actually have an own interest to manage compliance, out of existential interest.”

Furthermore, experts see it as important not to leave compliance to chance. Without compliance, it is necessary to trust that people within an organization behave in a regular manner. It depends on chance whether they do so or not. In this sense, the added value of compliance is that conformity to rules is left neither to chance nor to the arbitrariness of individuals, but that an order is established for behavior that complies with the rules.

Whether compliance sends out a positive signal to potential employees and thus constitutes added value in recruitment is viewed differently. While clear rules in a research institute could increase the attractiveness of the workplace, experts equally emphasize that compliance should not be seen as a marketing buzzword.

4.2.3 Implementation of compliance

Experts see the potential overload related to the introduction of additional systems and limited resources as the biggest challenges for the introduction of compliance management in smaller research institutes. For this reason, some experts emphasize that a compliance management system or an independent compliance department is not economically viable in such institutes. For smaller research institutes, experts can imagine one person in the research institute who regularly considers the topic of compliance or sub-topics. Depending on the particular institute, its size, organization and qualifications, it could also make sense to use existing structures and resources to address compliance issues.

An excessive code of conduct or, in general, the additional administrative burden, which gives the impression of a “control cage”, are seen as dangers. As a result, the positive effect and the perceived added value of compliance would quickly be lost. A “healthy sense of proportion” is important, as otherwise it is difficult to implement compliance and to maintain it continuously while conserving resources. Finding the right balance between monitoring and laissez-faire is particularly important to avoid a culture of mistrust or general suspicion. The point is to establish structures where there are actual risks, but otherwise not to establish disproportionate bureaucracy. Certain elements, such as risk analyses, would be helpful in addition to research- and science-appropriate compliance structures. Depending on requirements, risk management that is compliance-oriented but not certified may be more appropriate than a certified management system.

The respondents differ in their views on the significance of existing compliance standards. Some believe that standards are helpful for orientation. Once basic questions about risks and responsibilities at the research institute have been answered, compliance could be handled according to a pre-established system or according to the tried-and-tested model of an auditing firm. Some respondents could well imagine additional indications, rankings or certifications of compliance since the institutes could use these for marketing purposes.

In contrast, there are respondents who fundamentally oppose this. They criticize what they see as the prevailing approach of implementing a management standard like a recipe and expecting to obtain a finished cake. A small research institute with less than 50 employees does not need to establish a full-fledged compliance management system. In this view, existing standards are too complicated, and mismatch reality in academia.

For the communication of rules to the employees the accuracy of the compliance measures is seen as important. For some experts, it is primarily a question of the benefits of controlling compliance with rules in certain areas and less a question of re-educating employees or preventing every potential breach of the rules, which they do not deem feasible.

4.2.4 Best practice advice

As a first step, most experts recommend that institutes should take stock of the current state of a research institute and set the goal of compliance management. This involves identifying compliance-relevant topics that have already been dealt with. An analysis of the legal framework should determine which rules apply to the institute and are of particular importance. Experts find it key for the introduction of compliance to raise awareness for the topic of organizational culture that persists regardless of leadership. To what extent can formal structures and informal demands of the organization trap righteous employees in injustice and guilt? Some experts recommend that psychologists or sociologists rather than lawyers or economists should analyze the organizational structure of institutes.

The next step is to identify areas of action and key topics that a research institute needs to address. This includes either an analysis of processes that have previously increased the likelihood of rule violations, looking at the flow of core processes, support processes and management processes as well as problems in audits or areas of complaints (process view). Alternatively, experts recommend to systematically collect topics for a risk inventory in which all compliance topics from occupational health and safety to public procurement law are examined. For institutes that are not anchored in a research organization and have fewer resources for compliance, experts recommend the process view, since they assume that the relevant topics will arise directly from the process analysis.

The experts emphasize that the risk perception has a strong influence on the prioritization of compliance. Since the perception of risk varies greatly, a risk analysis should identify problem areas and improve risk perception. A compliance atlas or map can provide a good overview of the institute's risks. Thinking in terms of worst-case scenarios can facilitate the risk analysis. Major compliance risks identified in such an approach are those with the highest potential damage and not necessarily those with the highest probability of occurrence. However, to define a set of minimum measures, it makes sense to specify the effects for the worst case. The more measures defined, the more sophisticated the risk management and the lower the probability of a high level of damage.

In a further step, the majority of experts underline clear assignment of responsibilities for compliance. It is important to consider where compliance is located in the organization and how many people manage it so that it becomes more comprehensible and transparent. If the management board and senior executives act as role models and support compliance (tone from the top), then a good compliance culture and communication emerges.

All experts are in favor of networking and exchange among research institutes. They advise to learn from the mistakes of others, to benefit from insights and best practice examples, and to develop a pool of experience. For the majority of experts, it is conceivable for research institutes to exchange information on a regular basis in working groups or a

task force. Common topics could lead to a common standard or principles. Furthermore, a working group could organize training for basic topics (e.g., dealing with corruption). However, training an institute to work on existing patterns and behaviors should be done in specific discussions with employees and managers on site.

To increase acceptance of compliance measures, experts recommend involving employees at an early stage to communicate compliance knowledge and collaborate on measures. For example, a code of conduct could be developed with the employees so that they recognize the reason for such a code and the rules in it. A small handout with the essential points should be feasible at every research institute. Checklists, flow charts or traffic light systems are also suitable for presenting the rules transparently and consistently.

A large proportion of experts emphasized support from external experts. Not every institute has the necessary expertise for its specific subject areas. It would be important to take advantage of consulting at an early stage to be prepared for high risk cases. Experts assume that external help would be easier to finance than hiring extra staff.

There is consensus among experts that compliance in research institutes should build on already existing structures and on established responsibilities. It should be analyzed how compliance can be integrated into decision-making, coordination and monitoring processes so that it is reflected in the existing structure without redundancies. It is not necessary to reinvent the wheel, but to translate compliance management into the institute’s context.

5 Conclusion

In this paper, we examine the status quo, potential and barriers of compliance management in research institutes. The literature on compliance management so far mainly focuses on a discussion of the benefits and advantages of such measures. Our paper is among the first that aims to systematically assess the use and usefulness of compliance management for research institutions, in particular in smaller institutes that may have few financial and human resources to assess and prevent compliance risks. For this purpose, we surveyed leaders of German research institutes and conducted semi-structured interviews with experts.

Our survey of leaders and expert interviews reveal that compliance management in research institutes is considered as beneficial as long as it does not consume too many resources. In particular, compliance management should not conflict with the autonomy of research but should be designed in a way that supports research autonomy. The survey as well as the expert interviews show that compliance management in research institutes is a relatively new topic and for this reason many institutions seem to not yet have dealt with it. It seems to be the case that research institutes think about compliance management more intensively when rule violations have occurred. Yet, several institutions do have instruments

in place that are useful to monitor and prevent compliance, such as internal control systems, systematic analyses of the legal framework, risk management, and whistleblowing systems.

As a way forward, experts emphasize that it is important to use existing structures. There is no one-size-fits-all approach to compliance management in science. Instead of a uniform concept of compliance in the research landscape, compliance management should be adjusted to each institution's structures and implemented in a resource-efficient way. Our survey shows that this is exactly what research institutes are doing. They focus on certain parts of compliance management such as risk and legal analyses.

Although experts stress that it is in the institutions' own interest to implement compliance measures, providing information to institutional leaders about the benefits of compliance may be useful. Rather than implementing compliance management in reaction to rule violations, which seems to be the current practice, it seems to be preferable to establish compliance management before rule violations occur.

Although our study refers to research institutes in Germany, we think that the general insights apply more generally to research institutions. The described tension between the autonomy of science and administrative burdens also exists in other countries and types of research institutions. Most research institutions face the challenge of scarce budgets.

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Appendix

A Survey

A.1 E-mail invitation (translated from German)

Subject: Survey on compliant behavior in research institutes

Dear Sir or Madam,

the aim of this survey is to find out how non-university research institutes ensure compliant behavior. In order to obtain a comprehensive picture, it is important to obtain your responses. Based on the answers, recommendations will be developed on how research institutes can ensure compliant behavior of their employees. For this reason, we kindly ask you to complete the questionnaire; it will take about five minutes.

(Link to the survey)

We assure you that your responses cannot be traced back to you or your institute. If any information allows identification, we guarantee not to take any action based on that information. Access to survey data will be limited to the project team; responses will be published only as a result of aggregate statistical analysis.

If you have any questions or comments, please do not hesitate to contact us at umfrage@eucken.de.

Thank you in advance for your participation in the survey. Lars Feld, Sarah Necker and Katharina Pfeil

A.2 Questionnaire (translated from German)

Welcome

This survey is conducted by the Walter Eucken Institute on behalf of the Ministry of Science, Research and the Arts of the State of Baden-Württemberg. With your participation you make an important contribution to our research. The content of the survey is rule-abiding behavior at non-university research institutions. Participation should take about five minutes.

You hereby agree that the data collected in the survey will be recorded anonymously.

It is not possible to draw conclusions about individual persons. It is guaranteed that this data will not be passed on to third parties.

When published, the data will not reveal who participated in this survey. The consent to the collection and processing of the data is irrevocable, since due to the anonymized form of the survey no participant-related deletion can be carried out.

Participation is voluntary. You can cancel participation at any time and close the browser window. Please contact us at umfrage@eucken.de if you have any questions about the study.

The questionnaire will start as soon as you agree to the above procedure and agree to participate in the study. By clicking YES, I declare that I agree with the above procedure and I voluntarily agree to participate in this study.

- ☐ YES
- ☐ NO

Part 1: Information about yourself and the research institute

What is your function at your research institute?

- ☐ Member of the institute management (1)
- ☐ Compliance officer (2)
- ☐ Non-scientific employee (3)
- ☐ Scientific employee (4)
- ☐ Other, namely: (5)

Please select the type of your research institute

- ☐ Research institute of the Fraunhofer-Gesellschaft (4)
- ☐ Research institute of the Helmholtz Association (5)
- ☐ Research institute of the Leibniz Association (6)
- ☐ Research institute of the Max Planck Society (7)
- ☐ Federal research institute (8)
- ☐ State research institute (9)
- ☐ Other, namely: (10)

To which discipline(s) does your research institute belong?

- ☐ Humanities (4)
- ☐ Engineering sciences (16)
- ☐ Natural sciences (17)

- o Agricultural sciences (18)
- o Philosophy (19)
- o Law (5)
- o Social sciences (6)
- o Structural sciences (7)
- o Theology (8)
- o Economic sciences (9)

How many employees does your research institute have?

- o Scientific:
- o Non-scientific:

Part 2: Ensuring compliant behavior

Compliance encompasses the totality of measures taken by an organization to ensure that employees behave in accordance with the law and the rules. We would like to know what measures are taken at your facility.

Which of the following elements exist in your organization? (Multiple answers possible)

- o Internal control system (4)
- o Internal audit (5)
- o Risk management system (6)
- o Compliance management system (7)
- o Legal department/ Legal counsel (8)
- o Other monitoring function: (9)

Who is responsible for compliance at your institute? (Multiple answers possible)

- o The management (4)
- o Compliance officer (5)
- o Compliance department (6)
- o Compliance commission (7)
- o No one (8)
- o Other, namely: (9)

Legal Analysis: To what extent have you captured and documented the legal framework relevant to your facility?

- o Not at all (1)
- o Unsystematically (2)

- o Systematically (3)
- o Not known to me (4)

Risk management: To what extent do you identify, assess, manage and control risks that may arise from the institution's activities?

- o Not at all (4)
- o Unsystematically (5)
- o Systematically (e.g., as part of a risk management system) (6)
- o Not known to me (7)

Communication: Does your facility have codes of practice or training where employees are informed about the regulations that apply to the organization?

- o Yes, specifically (code of conduct, organizational handbook, app, training): (4)
- o No (5)

Monitoring: Does your research institution have a whistleblower system? By this, we mean tools that allow potential violations of rules to be reported, e.g., electronic whistleblower systems or an ombudsperson.

- o Yes, and that is (electronic, personalized): (4)
- o No (5)

Display This Question: If Which of the following is in place in your organization? (Multiple answers possible) = Compliance management system

What is your experience in implementing compliance?
(open text field)

Display This Question: If Which of the following is in place in your organization? (Multiple answers possible) != Compliance management system

Why has compliance not yet been implemented at the facility? (Multiple answers possible)

- o We have not yet addressed issue. (1)
- o Operational and organizational costs are too high. (2)
- o Rule breaking is not a problem at the research institution. (3)
- o Compliance does not include added value to our organization. (5)
- o Other reason: (4)

Part 3: General information about compliance

Finally, we would like to know how you assess the topic of compliance in general.

How great is the risk to law- and regulation-compliant behavior among employees of research institutions in the following areas: Very low (1), Low (2), Neither (5), High (8), Very high (9)

Occupational health and safety (13)

Foreign trade law (19)

Data loss/misuse (5)

Discrimination (20)

Third-party funding (14)

Hazardous materials (21)

Intellectual property (16)

Gifts/ sponsoring (17)

IT security (4)

Conflicts of interest (22)

Cooperations (23)

Corruption (12)

Secondary activities (28)

Tax law (24)

Espionage (25)

Animal welfare (26)

Environmental protection (27)

Public procurement law (15)

Scientific misconduct (11)

In your opinion, what added value can compliance measures have?

- o Ensure compliance with laws to avoid liability cases (1)
- o Ensure compliance with internal organizational rules (2)
- o Ensure compliance with scientific standards (3)
- o Ensure compliance with other ethical standards (4)
- o Other: (5)

Would you be more concerned with compliance if compliant behavior were part of evaluation criteria?

- o Yes (1)
- o No (2)

Are you interested in receiving more information on compliance, such as training from the state?

- o Yes (1)
- o No (2)

B Expert interviews

Interview guide (translated from German)

Preliminary note: Thank you for your interest in this interview. The aim of this research project is to describe the current state of compliance in research institutes in Germany and to develop recommendations for action to implement compliance at non-university research institutes that are not part of a larger scientific organization. In addition to the ten to 20 expert interviews to explore the research field, the study is based on a survey of non-university institutes in Germany (N=500).

This interview is about your experiences with the topic of compliance. The aim of the interview is to reflect on the possible design of compliance at non-university institutes.

The interview will take approximately half an hour. All information we receive from you during the interview will be kept strictly confidential. It will only be accessible to the project team of the study described above. [Confirmation of the level of anonymity and recording of the interview from the consent form.]

Start of the interview: The goal of compliance management systems is to view rule compliance in a systematic and organized way in order to deal with applicable requirements in a transparent and responsible manner.

Question 1: How would you describe your area of responsibility or research?

Compliance management according to IdW Examination Standard 980 consists of a compliance culture, objectives, risks, program, organization, communication and monitoring. There are also various compliance risks in scientific institutions (from occupational health and safety to grant law).

Question 2: In your opinion, which elements of compliance management and which compliance risks are particularly relevant in scientific institutions? How can the elements of compliance management be prioritized for non-university research institutions with less resources?

Question 3: How do you think compliance can be implemented in institutes that have not yet addressed the issue? Questions

- What incentives or added value would institutes have to implement compliance tools or a compliance management system?
- How could the importance of compliance be put more strongly on the agenda of non-university institutes?
- What could non-university research institutions learn from designing CMS in their workplace/ within their research?

Question 4: Do you think it would be conceivable for independent research institutions to work together on the topic of compliance?

- Which topics or compliance instruments (e.g., codes of conduct, whistleblower systems) can be worked on well at the central level (across institutes)?
- Which topics or instruments would each research institute have to work on individually?

Question 5: How could public funding agencies support the design of compliance more strongly?

Question 6: Is there anything else that has not come up in the interview so far, but is important to you?

Thank you very much for the interview and the fascinating insights.

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